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State v. Gas Clerk's Record Dckt. 43259

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IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,	)	Supreme Court No. 43259
)	
v.)	
)	
AMAN FARAH GAS,)	
)	
Defendant-Appellant,)	
)	
)	
)	

CLERK'S RECORD

Appeal from the District Court of the Sixth Judicial District of the State of
Idaho, in and for the County of Bannock.

Before **HONORABLE Stephen S. Dunn** District Judge.

For Appellant:

Sara B. Thomas
State Appellate Public Defender
P.O. Box 83720
Boise, Idaho 83720-0005

For Respondent:

LAWRENCE G. WASDEN
Idaho Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010

State of Idaho vs. Aman F Gas

Date	Code	User		Judge
1/22/2013	LOCT	DENAP	cr	Stephen S Dunn
	NCRF	DENAP	New Case Filed-Felony	Magistrate Court Clerk
	PROS	DENAP	Prosecutor Assigned JaNiece Price	Magistrate Court Clerk
	CRCO	DENAP	Criminal Complaint- I Count of RAPE, Idaho Code 18-6101(4)	Magistrate Court Clerk
	AFPC	DENAP	Affidavit Of Probable Cause/ PPD Incident Report 13-P01084/\$30,000.00 Request For Bond.	Magistrate Court Clerk
	ORDR	DENAP	Probable Cause Minute Entry And Order-Probable Cause Determined, Defendant Remain In Custody With \$30,000 Bond Set. /s/ Clark 01/22/2013	Magistrate Court Clerk
	HRSC	DENAP	Hearing Scheduled (Arraignment 01/22/2013 01:15 PM)	Eric S. Hunn
	ARRN	KIM	Hearing result for Arraignment scheduled on 01/22/2013 01:15 PM: Arraignment / First Appearance	Eric S. Hunn
	ORPD	KIM	Defendant: Gas, Aman F Order Appointing Public Defender Public defender Randall D Schulthies	Eric S. Hunn
	BOND	KIM	Bond Set at 30000.00	Eric S. Hunn
	NCCO	KIM	No Contact Order Issued	Eric S. Hunn
	HRSC	KIM	Hearing Scheduled (Preliminary Hearing 02/05/2013 09:30 AM)	David Kress
		KIM	Order to Attend Preliminary Hearing	David Kress
	ORDR	JOYLYNN	No Contact Order: Order Comment: NO CONTACT ORDER ISSUED Expiration Days: 365 Expiration Date: 1/22/2014	David Kress
2/5/2013	PHHD	KIM	Hearing result for Preliminary Hearing scheduled on 02/05/2013 09:30 AM: Preliminary Hearing Held	David Kress
	BOUN	KIM	Bound Over (after Prelim)	David Kress
2/7/2013	HRSC	DCANO	Hearing Scheduled (Arraignment 02/11/2013 09:30 AM)	Stephen S Dunn
		DCANO	Prosecuting Attorney's Information (2) charge, "Rape" IC 18-6101(6)(a) and/or (b)."	Stephen S Dunn
	BOND	DCANO	Bond Set - \$30,000.00 In Custody	Stephen S Dunn
2/11/2013	PLEA	KARLA	Plea is entered for charge: - NG (I18-6101(4) Rape-Resists but Resistance is Overcome by Force or Violence)	Stephen S Dunn
2/12/2013		CINDYBF	Motion for Bond Reduction- by DA Reynolds.	Stephen S Dunn
2/13/2013	ARRN	KARLA	Hearing result for Arraignment scheduled on 02/11/2013 09:30 AM: Arraignment / First Appearance	Stephen S Dunn
	ORPD	KARLA	Order Appointing Public Defender Kent V Reynolds	Stephen S Dunn

State of Idaho vs. Aman F Gas

Date	Code	User		Judge
2/13/2013	HRSC	KARLA	Hearing Scheduled (Pre-trial Conference 05/06/2013 04:00 PM)	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Jury Trial 05/21/2013 09:00 AM)	Stephen S Dunn
	DISC	CINDYBF	Request for Discovery- by PA Price.	Stephen S Dunn
		CINDYBF	Response to Request for Discovery- by PA Price.	Stephen S Dunn
2/19/2013	TRAN	LINDAL	Transcript Filed 2/5/2013 preliminary hearing	Stephen S Dunn
3/4/2013	MOTN	BRANDY	Second Discovery Motion; dfdt aty	Stephen S Dunn
3/11/2013		CINDYBF	Response to Second Discovery Motion- by PA Price.	Stephen S Dunn
5/8/2013	MOTN	BRANDY	Motion to continue; at yfor State	Stephen S Dunn
	HRSC	BRANDY	Hearing Scheduled (Motion 05/13/2013 09:30 AM); notice of hearing	Stephen S Dunn
5/10/2013	HRHD	KARLA	Hearing result for Pre-trial Conference scheduled on 05/06/2013 04:00 PM: Hearing Held	Stephen S Dunn
5/14/2013	DCHH	KARLA	Hearing result for Motion scheduled on 05/13/2013 09:30 AM: District Court Hearing Held Court Reporter: Sheri Turner Number of Transcript Pages for this hearing estimated: less 100	Stephen S Dunn
	CONT	KARLA	Continued (Jury Trial 06/18/2013 09:00 AM)	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Pre-trial Conference 06/03/2013 04:00 PM)	Stephen S Dunn
	MEOR	KARLA	Minute Entry and Order; Court Grant State Motion to Continue; reset trl and pretrial; /s J Dunn 05/13/13	Stephen S Dunn
5/21/2013	MOTN	BRANDY	Motion for OR Release or in the Alternative a Bond Reduction; dfdt aty	Stephen S Dunn
5/24/2013	NOTC	BRANDY	Notice of hearing; dfdt aty	Stephen S Dunn
5/31/2013	HRSC	KARLA	Hearing Scheduled (Motion 06/03/2013 09:30 AM)	Stephen S Dunn
6/6/2013	DCHH	KARLA	Hearing result for Motion scheduled on 06/03/2013 09:30 AM: District Court Hearing Held Court Reporter: Sheri Turner Number of Transcript Pages for this hearing estimated: less 100	Stephen S Dunn
	HRHD	KARLA	Hearing result for Pre-trial Conference scheduled on 06/03/2013 04:00 PM: Hearing Held	Stephen S Dunn
	MEOR	KARLA	Minute Entry and Order; court deny Motion for Release or Bond Reduction; /s J Dunn 06/04/13	Stephen S Dunn
6/7/2013	CONT	KARLA	Continued (Jury Trial 07/16/2013 09:00 AM)	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Pre-trial Conference 07/01/2013 04:00 PM)	Stephen S Dunn
6/12/2013	MOTN	KARLA	Motion for DNA testing (Reynolds)	Stephen S Dunn

State of Idaho vs. Aman F Gas

Date	Code	User	Judge
6/14/2013	HRSC	KARLA	Hearing Scheduled (Motion 06/17/2013 09:30 AM)
	RESP	BRANDY	First Supplemental Response to discovery request; aty for State
6/19/2013	DCHH	KARLA	Hearing result for Motion scheduled on 06/17/2013 09:30 AM: District Court Hearing Held Court Reporter: Sheri Turner Number of Transcript Pages for this hearing estimated: less 100
	MEOR	KARLA	Minute Entry and Order; Def withdraw Motion; /s J Stephen S Dunn 06/18/13
7/2/2013	MOTN	BRANDY	Motion to continue jury trial; aty for State
	NOTC	BRANDY	Notice of hearing; aty for State
	HRSC	BRANDY	Hearing Scheduled (Motion 07/08/2013 09:30 AM)
7/10/2013	DCHH	KARLA	Hearing result for Motion scheduled on 07/08/2013 09:30 AM: District Court Hearing Held Court Reporter: Sheri Turner Number of Transcript Pages for this hearing estimated: less 100
	HRHD	KARLA	Hearing result for Pre-trial Conference scheduled on 07/01/2013 04:00 PM: Hearing Held
	CONT	KARLA	Continued (Jury Trial 08/20/2013 09:00 AM)
	HRSC	KARLA	Hearing Scheduled (Pre-trial Conference 08/05/2013 04:00 PM)
	MEOR	KARLA	Minute Entry and Order; Court grant State Motion to Continue; reset trial and pretrial; /s J Dunn 07/09/13
8/9/2013	HRHD	KARLA	Hearing result for Pre-trial Conference scheduled on 08/05/2013 04:00 PM: Hearing Held
	HRSC	KARLA	Hearing Scheduled (Motion 08/12/2013 09:30 AM)
8/14/2013	CONT	KARLA	Continued (Jury Trial 09/17/2013 09:00 AM)
	HRSC	KARLA	Hearing Scheduled (Pre-trial Conference 09/03/2013 04:00 PM)
	DCHH	KARLA	Hearing result for Motion scheduled on 08/12/2013 09:30 AM: District Court Hearing Held Court Reporter: Sheri Turner Number of Transcript Pages for this hearing estimated: less 100
	MEOR	KARLA	Minute Entry and Order; Court grant State Motion to Continue Trial; reset trial and pretrial; /s J Dunn 08/13/13
	MOTN	KARLA	Motion to Continue Jury Trial (Price for STate)
	NOTC	KARLA	Notice of Hearing for Motion to Continue Jury Trial

State of Idaho vs. Aman F Gas

Date	Code	User		Judge
9/6/2013	HRHD	KARLA	Hearing result for Pre-trial Conference scheduled on 09/03/2013 04:00 PM: Hearing Held	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Motion 09/09/2013 09:30 AM)	Stephen S Dunn
9/9/2013	RESP	BRANDY	Second Supplemental Response to Discovery Request; aty for State	Stephen S Dunn
9/11/2013	MOTN	BRANDY	Motion for payment of expert witnesses fees from district court fund; dfdt aty	Stephen S Dunn
9/17/2013	CONT	KARLA	Continued (Jury Trial 11/19/2013 09:00 AM)	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Pre-trial Conference 11/04/2013 04:00 PM)	Stephen S Dunn
9/18/2013	DCHH	KARLA	Hearing result for Motion scheduled on 09/16/2013 09:30 AM: District Court Hearing Held Court Reporter: Sheri Turner Number of Transcript Pages for this hearing estimated: less 100	Stephen S Dunn
	MEOR	KARLA	Minute Entry and Order; Counsel to submit identity of witness and estimates of costs to court; under advisement; /s J Dunn 09/17/13	Stephen S Dunn
9/20/2013	MOTN	BRANDY	Second discovery Motion; dfdt aty	Stephen S Dunn
9/23/2013	MOTN	BRANDY	Third Discovery Motion; dfdt aty	Stephen S Dunn
9/25/2013	RESP	BRANDY	Second Response to Discovery Motion; aty for State	Stephen S Dunn
10/30/2013	RESP	BRANDY	Response to third discovery request; aty for State	Stephen S Dunn
11/8/2013	HRHD	KARLA	Hearing result for Pre-trial Conference scheduled on 11/04/2013 04:00 PM: Hearing Held	Stephen S Dunn
	CONT	KARLA	Continued (Jury Trial 01/21/2014 09:00 AM)	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Pre-trial Conference 01/06/2014 04:00 PM)	Stephen S Dunn
1/10/2014	HRHD	KARLA	Hearing result for Pre-trial Conference scheduled on 01/06/2014 04:00 PM: Hearing Held	Stephen S Dunn
	CONT	KARLA	Continued (Jury Trial 03/18/2014 09:00 AM)	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Pre-trial Conference 03/03/2014 04:00 PM)	Stephen S Dunn
2/19/2014	MOTN	BRANDY	Motion to suppress; dfdt aty	Stephen S Dunn
2/20/2014	MOTN	BRANDY	Fourth Discovery Motion; dfdt aty	Stephen S Dunn
2/21/2014	RESP	BRANDY	Second Response to Discovery Motion; dfdt aty	Stephen S Dunn
	RESP	BRANDY	First Response to discovery request; dfdt aty	Stephen S Dunn
2/28/2014	MOTN	BRANDY	Motion to continue trial; dfdt aty	Stephen S Dunn
3/3/2014	MOTN	BRANDY	Fifth Discovery Motion; dfdt aty	Stephen S Dunn
3/5/2014	OBJT	KARLA	Objection to Defendant's Motion to Suppress (Price for State)	Stephen S Dunn
3/11/2014	CONT	KARLA	Continued (Jury Trial 05/20/2014 09:00 AM)	Stephen S Dunn

State of Idaho vs. Aman F Gas

Date	Code	User	Judge
3/11/2014	CONT	KARLA	Continued (Pre-trial Conference 05/05/2014 04:00 PM)
3/18/2014	ILET	JOYLYNN	No Contact Order Removed From Ilets. It expired 01/22/14. I sent an email to Karla letting her know it expired and would need to be re-issued if the Judge wants one in place.
3/21/2014	NOTC	BRANDY	Notice of hearing; dfdt aty
		CINDYBF	Sixth Discovery Motion- by DA Reynolds.
	ORDR	JOYLYNN	No Contact Order: Order Comment: 03/21/14 - NCO RE-ISSUED Expiration Days: 365 Expiration Date: 3/21/2015
3/31/2014	RESP	BRANDY	Response to fifth discovery request; aty for State
4/4/2014	HRSC	KARLA	Hearing Scheduled (Motion to Suppress 04/09/2014 03:00 PM)
4/10/2014	RESP	KARLA	Response to Fourth Discovery Request (Price for State)
4/11/2014	DCHH	KARLA	Hearing result for Motion to Suppress scheduled on 04/09/2014 03:00 PM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100
	MEOR	KARLA	Minute Entry and Order; Def Motion to suppress; briefing schedule; matter will then be taken under advisement; /s J Dunn 04/11/14
4/14/2014	RESP	KARLA	Response to Sixth Discovery Request (Price for State)
4/16/2014	MOTN	KARLA	First Motion to Compel (Reynolds for Def)
	RESP	KARLA	Third Response to Discovery Request (Reynolds for def)
	RESP	KARLA	Third Supplemental Response to Discovery Request (Price for State)
4/18/2014	STIP	KARLA	Additional Stipulation of the Parties rd; Motion to Suppress and the Admission of Additional Evidence (Reynolds for Def; Price for State)
4/21/2014	MOTN	KARLA	Motion to Quash Subpoenda Duces Tecum (Price for State)
	BRFS	KARLA	Brief in Support of Motion to Suppress (Reynolds for Def)
4/24/2014	HRSC	KARLA	Hearing Scheduled (Motion 04/28/2014 09:30 AM)
	RESP	KARLA	Fourth Response to Discovery Request (Reynolds for Def)
4/28/2014	RESP	KARLA	Plaintiff's Response Brief in Opposition to Defendant's Motion to Suppress (Price for State)

State of Idaho vs. Aman F Gas

Date	Code	User	Judge
4/30/2014	DCHH	KARLA	Hearing result for Motion scheduled on 04/28/2014 09:30 AM: District Court Hearing Held Court Reporter: Sheri Notheiphim Number of Transcript Pages for this hearing estimated: less 100
	MEOR	KARLA	Minute Entry and Order; Court deny State's Motion to quash subpoena duces tecum; /s J Dunn 04/28/14
5/1/2014	DISC	KARLA	Sixth Discovery Motion (Reynolds for Def)
	DISC	KARLA	Eighth Discovery Motion (Reynolds for def)
5/2/2014	NOTC	KARLA	Notice of Alibi Defense (Reynolds for Def)
5/5/2014	RESP	KARLA	Sixth Response to Discovery Request (Reynolds for Def)
	RESP	KARLA	Fifth Response to Discovery Request (Reynolds for Def)
5/6/2014	ORDR	KARLA	Order Denying Defendant's Motion to Suppress /s J Dunn 05/05/14
	MOTN	KARLA	Ninth Discovery Motion (Reynolds for Def)
		KARLA	Defendant's First Witnesses List (Reynolds)
	RESP	KARLA	Response to Sixty Discovery Request **Supplemental** (Price for State)
5/7/2014	HRHD	KARLA	Hearing result for Pre-trial Conference scheduled on 05/05/2014 04:00 PM: Hearing Held
	MOTN	KARLA	First Motion in Limine (Reynolds)
	RESP	KARLA	Seventh Response to Discovery Request (Reynolds)
		KARLA	Defendant's Second Witnesses List (Reynolds)
5/8/2014	MOTN	KARLA	Second Motion in Limine (Reynolds)
	RESP	KARLA	Eighth Response to Discovery Request (Reynolds)
5/9/2014	CONT	KARLA	Continued (Jury Trial 05/19/2014 01:00 PM)
	ORDR	KARLA	Order regarding jury trial /s J Dunn 05/09/14
	HRSC	KARLA	Hearing Scheduled (Motion 05/12/2014 09:30 AM)
	NOTC	KARLA	Notice of Hearing; Def 1st and 2nd Motions in Limine (Reynolds for Def)
	RESP	KARLA	Response to Eighth Discovery Request (Price for State)
	RESP	KARLA	Response to Ninth Discovery Request (Price for State)
		KARLA	Defendant's Third Witnesses List (Reynolds for Def)
		KARLA	Defendant's First Exhibit List (Reynolds for Def)

State of Idaho vs. Aman F Gas

Date	Code	User		Judge
5/9/2014	RESP	KARLA	Ninth Response to Discovery Request (Reynolds for Def)	Stephen S Dunn
	RESP	KARLA	Tenth Response to Discovery Request (Reynolds for Def)	Stephen S Dunn
		KARLA	Defendant's First Set of Requested Jury Instructions (Reynolds for Def)	Stephen S Dunn
	MOTN	KARLA	Third Motion in Limine (Reynolds for Def)	Stephen S Dunn
		KARLA	Offer of Proof in Support of Third Motion in Limine (Reynolds for Def)	Stephen S Dunn
5/12/2014		KARLA	State's Exhibit List (Price for State)	Stephen S Dunn
		KARLA	State's Witness List (Price for State)	Stephen S Dunn
		KARLA	Plaintiff's Requested Jury Instructions (Price for State)	Stephen S Dunn
5/14/2014	MEOR	KARLA	Minute Entry and Order; Court deny Def First Motion in Limine; Court reserved ruling of Def 2nd Motion in Limine until after viewing photographs; Court reserve ruling of Def 3rd Motion in Limine until trial; Court grant Motion for Def to appear in street clothes; /s J Dunn 05/13/14	Stephen S Dunn
	DCHH	KARLA	Hearing result for Motion scheduled on 05/12/2014 09:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100	Stephen S Dunn
	RESP	KARLA	Response to Seventh Discovery Request (Reynolds for Def)	Stephen S Dunn
	MOTN	KARLA	Motion to Take Witnesses Testimony out of Order (Reynolds for Def)	Stephen S Dunn
5/15/2014	MOTN	KARLA	Second Motion to Take Witnesses Testimony Out of Order (Reynolds for Def)	Stephen S Dunn
	RESP	KARLA	Eleventh Response to Discovery Request (Reynolds for Def)	Stephen S Dunn
		KARLA	Defendant's Second Set of Requested Jury Instructions (Reynolds)	Stephen S Dunn
5/16/2014		KARLA	Defendant's Second Exhibit List (Reynolds for Def)	Stephen S Dunn
	OBJT	KARLA	Defendant's Objection to State's Proposed Exhibits and Courts Proposed Post-Proof Jury Instructions (Reynolds)	Stephen S Dunn
	RESP	KARLA	Amended Twelfth Response to Discovery Request (Reynolds)	Stephen S Dunn
		KARLA	Defendant's Notice of Withdrawal of Requested Jury Instructions (Reynolds)	Stephen S Dunn
	NOTC	KARLA	Notice of Hearing (Motion to Disqualify) 05/19/14 @ 9:30 (Reynolds)	Stephen S Dunn

State of Idaho vs. Aman F Gas

Date	Code	User	Judge
5/16/2014	NOTC	KARLA	Notice of Hearing (Second Motion to Compel) 05/19/14 @ 9:30
	NOTC	KARLA	Notice of Hearing (Fourth Motion in Limine) 05/19/14 @ 9:30
	MOTN	KARLA	Second Motion to Compel (Reynolds)
	MOTN	KARLA	Fourth Motion in Limine (Reynolds)
	MOTN	KARLA	Motion to Disqualify (Reynolds)
	MOTN	KARLA	State's First Motion in Limine (Price)
	NOTC	KARLA	Notice of Hearing; State's First Motion in Limine; (Price)
	MOTN	KARLA	State's Second Motion in Limine (Price for State)
	NOTC	KARLA	Notice of Hearing (State Second Motion in Limine)
5/19/2014	HRSC	KARLA	Hearing Scheduled (Motion 05/19/2014 09:30 AM)
	AFFD	KARLA	Affidavit of Service of Subpoena upon Abdulah Aldshehab
	AFFD	KARLA	Affidavit of Service of Subpeona Upon Monique Hamblin
5/20/2014	HRSC	KARLA	Hearing Scheduled (Jury Trial 05/20/2014 09:00 AM)
	DCHH	KARLA	Hearing result for Jury Trial scheduled on 05/19/2014 01:00 PM: District Court Hearing Hek Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: 160
	DCHH	KARLA	Hearing result for Motion scheduled on 05/19/2014 09:30 AM: District Court Hearing Hek Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100
	MOTN	KARLA	Motion to Move Trial (Reynolds)
5/21/2014	HRSC	KARLA	Hearing Scheduled (Jury Trial 05/21/2014 08:30 AM)
	DCHH	KARLA	Hearing result for Jury Trial scheduled on 05/20/2014 09:00 AM: District Court Hearing Hek Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: 350
	HRSC	KARLA	Hearing Scheduled (Jury Trial 05/22/2014 08:30 AM)
5/22/2014		KARLA	Jury Instructions
		KARLA	Verdict

State of Idaho vs. Aman F Gas

Date	Code	User	Judge
5/23/2014	DCHH	KARLA	Hearing result for Jury Trial scheduled on 05/22/2014 08:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: 255
	DCHH	KARLA	Hearing result for Jury Trial scheduled on 05/21/2014 08:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: 285
	MEOR	KARLA	Minute Entry and Order; Jury Trial held; panel sworn; voir dire; peremptory challenges; Jurors sworn; opening statements; witness testimony; exhibits presented; closing argument; deliberations; verdict; Not guilty of Rape; Guilty of Lesser Included "Battery with Intent to Commit Rape; polling of jury; PSI ordered; sentencing set; remanded; jury discharged; /s J Dunn 05/23/14
	HRSC	KARLA	Hearing Scheduled (Sentencing 07/14/2014 09:30 AM)
5/30/2014	REDU	KARLA	Charge Reduced Or Amended (I18-911 Battery With Intent to Commit a Serious Felony)
	MOTN	KARLA	Motion for Preparation of Trial Transcript and Motion for Trial Recording (Reynolds for Def)
	MOTN	KARLA	Motion to Set Aside Verdict and Motion for New Trial (Reynolds)
	MOTN	KARLA	Motion to Continue Sentencing (Reynolds)
6/10/2014	NOTC	KARLA	Notice of Scope of Case Transcript Preparation (Reynolds)
6/11/2014	STIP	KARLA	Stipulation of the Parties Re; Preparation of Case Transcript (Price; Reynolds)
6/12/2014	ORDR	KARLA	Order for Preparation of Case Transcript /s J Dunn 06/12/14
	NOTC	KARLA	Notice of Scope of Case Transcript Report (Reynolds)
6/20/2014	HRSC	KARLA	Hearing Scheduled (Motion 06/23/2014 09:30 AM)
6/27/2014	DCHH	KARLA	Hearing result for Motion scheduled on 06/23/2014 09:30 AM: District Court Hearing Held Court Reporter: sher Nothelphim Number of Transcript Pages for this hearing estimated: less 100
7/2/2014	CONT	KARLA	Hearing result for Sentencing scheduled on 07/14/2014 09:30 AM: Continued
	HRSC	KARLA	Hearing Scheduled (Further Proceedings 08/18/2014 09:30 AM)

State of Idaho vs. Aman F Gas

Date	Code	User	Judge
7/2/2014	MEOR	KARLA	Minute Entry and Order; Court continue sentencing; further proceedings set 08/18/14 .s J Dunn 07/01/14
7/25/2014	STIP	KARLA	Stipulation of the Parties to Extend Briefing Schedule (Reynolds; Price)
7/29/2014	ORDR	KARLA	Order Extending Briefing Schedule /s J Dunn 07/29/14
8/13/2014	AFFD	KARLA	Third Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict and Motion for New Trial; Amended Motion to Set Aside Verdict; Amended Motion for New Trial; Motion to Disqualify and Amended Motion to Disqualify Kent v. Reynolds; (Reynolds)
	AFFD	KARLA	2nd Affidavit of Kent v. Reynolds in Support of Motion to Set Aside Verdict and Motion for New Trial; Amended Motion to Set Aside Verdict; Amended Motion for New Trial; Motion to Disqualify and Amended Motion to Disqualify Kent V. Reynolds (Reynolds)
	AFFD	KARLA	1st Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict and Motion for New Trial; Amended Motion to Set Aside Verdict and Amended Motion for New Trial; Motion to Disqualify and Amended Motion to Disqualify (Reynolds)
	AFFD	KARLA	Affidavit of Lindsey Blake
8/14/2014	HRVC	KARLA	Hearing result for Further Proceedings scheduled on 08/18/2014 09:30 AM: Hearing Vacated
	BRFS	KARLA	Brief In Support of Motion to Set Aside Verdict and Motion for New Trial; amdned Motion to Set Aside Verdict and Motion for New Trial and Motion for Disqualification; (Reynolds)
8/15/2014	AFFD	KARLA	Affidavit of Kent Reynolds Re; Suppress Hearing Recording
	MOTN	KARLA	Motion Re; fourth Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict...RE; Photos and Motion to Strike Kent Reynolds from teh Title of the SEcond and thired Affidavits or to Substitute the Title Page and Have it Deemed Filed on August 13, 2014; (Reynolds)
8/22/2014	HRSC	KARLA	Hearing Scheduled (Motion 08/25/2014 09:30 AM)
8/27/2014	DCHH	KARLA	Hearing result for Motion scheduled on 08/25/2014 09:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100

Defendant: Gas, Aman F

State of Idaho vs. Aman F Gas

Date	Code	User	Judge
8/27/2014	MEOR	KARLA	Minute Entry and Order; Court grant Motion to Strike Kent Reynolds from title of second and Third Affidavits; photos not allowed at trial to be added to file in seperate envelope; /s J Dunn 08/27/14
	STIP	KARLA	Stipulation tp Extnd State's Response Brief Deadline (Price; REynolds)
8/29/2014	ORDR	KARLA	Order to Extnd State's Response Brief Deadline /s J Dunn 08/28/14
9/11/2014	RESP	KARLA	Plaintiff's Response Brief Re; Defendants Motion to Set Aside Verdict and Motion for New Trial; and Motion for Disqualification (Price for State)
9/25/2014	MOTN	KARLA	Second Motion to Set Aside Verdict and Second Motion for New Trial (Reynolds)
	BRFS	KARLA	Brief in Support of Second Motion to Set Aside Verdict and Second Motion for New Trial (Reynolds)
10/7/2014	RESP	KARLA	Plaintiff's Response Brief Re; Defendant's Second Motion to Set Aside Verdict and Motion for New Trial (Price)
10/21/2014	MOTN	KARLA	Third Motion to Set Aside Verdict and Third Motion for New Trial (Reynolds)
10/28/2014	RESP	KARLA	Plaintiff's Response Brief Re; Defendant's Third Motion to Set Aside Verdict and Motion for New Trial (Price)
10/30/2014	HRSC	KARLA	Hearing Scheduled (Motion 11/03/2014 09:30 AM)
	MOTN	KARLA	Fourth Motion to Set Aside Verdict and Fourth Motion for New Trial (REynolds)
10/31/2014	RESP	KARLA	Plaintiff's Response Brief Re; Defendant's Fourth Motion to Set Aside Verdict and Motion for New Trial (State)
11/3/2014	DCHH	KARLA	Hearing result for Motion scheduled on 11/03/2014 09:30 AM: District Court Hearing Held Court Reporter: Number of Transcript Pages for this hearing estimated:
	HRSC	KARLA	Hearing Scheduled (Motion 11/17/2014 09:30 AM)
	MEOR	KARLA	Minute Entry and Order; Def request cotninuance; State objects; Court reset to 11/17/14;s / Jdunn 11/03/14
11/19/2014	DCHH	KARLA	Hearing result for Motion scheduled on 11/17/2014 09:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100

State of Idaho vs. Aman F Gas

Date	Code	User	Judge
11/19/2014	MEOR	KARLA	Minute Entry and Order; Def request continuance; State objection; Reset for 12/01/14; /s J Dunn 11/19/14
	HRSC	KARLA	Hearing Scheduled (Motion 12/01/2014 09:30 AM) Stephen S Dunn
12/10/2014	DCHH	KARLA	Hearing result for Motion scheduled on 12/01/2014 09:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100 Stephen S Dunn
	MEOR	KARLA	Minute Entry and Order; Court hear argument on pending motions; Court take under advisement; s/ J Dunn 12/10/14 Stephen S Dunn
12/11/2014	HRSC	KARLA	Hearing Scheduled (Motion 12/15/2014 09:30 AM) Stephen S Dunn
	MOTN	KARLA	Motion for OR Release to Court Services (Reynolds) Stephen S Dunn
12/17/2014	DCHH	KARLA	Hearing result for Motion scheduled on 12/15/2014 09:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100 Stephen S Dunn
	MEOR	KARLA	Minute Entry and Order; Court deny Motion for OR Release to Court Services; s/ J Dunn 12/16/14 Stephen S Dunn
1/6/2015	AFFD	KARLA	5th Affidavit of Kent Reynolds in support of Motion to Set Aside Verdict and Motion for New Trial; Amended Motion to Set Aside Verdict; Amended Motion for New Trial; Motion to Disqualify and Amended Motion to Disqualify (Reynolds) Stephen S Dunn
1/12/2015	MOTN	KARLA	Motion for Transcripts (Reynolds) Stephen S Dunn
1/23/2015	DEOP	KARLA	Memorandum Decision and Order on Defendant's Motions to Set Aside Verdict, motions for new Trial and Motion to Disqualify; Court denies all Motions; psychosexual eval ordered; PSI ordered; sentencing set; /s J Dunn 01/23/15 Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Sentencing 03/23/2015 09:30 AM) Stephen S Dunn
	PSIO1	KARLA	Pre-Sentence Investigation Evaluation Ordered Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Motion 01/26/2015 09:30 AM) Stephen S Dunn
1/28/2015	DCHH	KARLA	Hearing result for Motion scheduled on 01/26/2015 09:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100 Stephen S Dunn

State of Idaho vs. Aman F Gas

Date	Code	User	Judge
1/28/2015	MEOR	KARLA	Minute Entry and Order; Court deny Motion for Transcripts; /s J Dunn 01/27/15
1/30/2015		LINDA	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Samantha Landauer Receipt number: 0003246 Dated: 1/30/2015 Amount: \$10.00 (Cash)
3/12/2015	CONT	KARLA	Hearing result for Sentencing scheduled on 03/23/2015 09:30 AM: Continued
	HRSC	KARLA	Hearing Scheduled (Sentencing 04/13/2015 09:30 AM)
4/8/2015		KARLA	Presentence Report
			Document sealed
4/10/2015	FINDG	KARLA	Court Finding: Guilty- (I18-911 Battery With Intent to Commit a Serious Felony)
	CSTS	KARLA	Case Status Changed: closed pending clerk action
4/13/2015	DCHH	KARLA	Hearing result for Sentencing scheduled on 04/13/2015 09:30 AM: District Court Hearing Held Court Reporter: Rodney Felshaw Number of Transcript Pages for this hearing estimated: less 100
	SNIC	KARLA	Sentenced To Incarceration (I18-911 Battery With Intent to Commit a Serious Felony) Confinement terms: Credited time: 813 days. Penitentiary determinate: 4 years. Penitentiary indeterminate: 6 years.
	SNPF	KARLA	Sentenced To Pay Fine 1990.50 charge: I18-911 Battery With Intent to Commit a Serious Felony
	RESO	KARLA	Restitution Ordered 100.00 victim # 1
	MEOR	KARLA	Minute Entry and Order; 4 yrs fixed; 6 yrs indeterminate; credit time served; remanded; court costs; \$1000 fine; dna sample; NCO continued through prison and parole term; appeal; Sex Offender registry; /s J Dunn 04/13/15
	ORDR	KARLA	Order of Commitment
4/15/2015		CHANTELLE	NCO EXTENDED
5/8/2015	APSC	DCANO	Appealed To The Supreme Court
	NOTC	DCANO	NOTICE OF APPEAL: Kent V. Reynolds, Public Defender for Aman Gas.
	MOTN	DCANO	MOTION TO APPOINT STATE APPELLATE DIVISION.
5/11/2015		DCANO	CLERK'S CERTIFICATE OF APPEAL: Signed and Sent to Counsel and Supreme Court on 5-11-15.

State of Idaho vs. Aman F Gas

Date	Code	User	Judge
5/18/2015	ORDR	DCANO	Order Appointing Stae Appellate Public Defender's s/ Judge Dunn on 5-13-15. (Mailed copies to Counsel and SC on 5-18-15.)
6/8/2015	MOTN	KARLA	Rule 35 Motion (Reynolds)
6/16/2015		DCANO	AMENDED NOTICE OF APPEAL: Kent V. Reynolds, Public Defender
6/17/2015		DCANO	AMENDED CERTIFICATE OF APPEAL: Signed and Mailed to SC and Counsel on 6-17-15.
6/25/2015		DCANO	IDAHO SUPREME COURT; Received Notice of Appeal. Docket # 43259-2015. (No due date given at this time)
	NOTC	DCANO	NOTICE OF LODGING RECEIVED in Court Records from Linda Larsen on 6-25-15.
	MISC	DCANO	IDAHO SUPREME COURT; Entered Notice of Defect Order, Amended Notice of Appeal Relecting the Names of the Reporter's for each of the Hearings Requested and Showing Service to Each of the Reporters, and Relecting date and Titles of Documents to be Added to the Clerk's Record to Be filed within 14 days.
6/26/2015	MISC	DCANO	Received Transcripts for the following hearings on 6-25-15 from Linda Larsen: Arraignment held 1-22-13 Preliminary Hearing held 2-5-13 Arraignment held 2-11-13.
	MISC	DCANO	IDAHO SUPREME COURT: Set Due Date 10-1-15 (Due to Counsel 5 weeks prior on 8-27-15)
7/13/2015	MISC	DCANO	SECOND AMENDED NOTICE OF APPEAL: Sara B. Thomas, State PD. Sent copies to Counsel and SC on 7-13-15.
	MISC	DCANO	SECOND AMENDED CLERK'S CERTIFICATE OF APPEAL. Signed and Mailed to Counsel and SC on 7-13-15.
7/20/2015	MISC	DCANO	IDAHO SUPREME COURT: Received Second Amended Notice of Appeal. DUE DATE FOR TRANSCRIPTS AND CLERK'S RECORD REMAINS AS SET FOR 10-1-15.
8/5/2015	HRSC	KARLA	Hearing Scheduled (Motion 08/17/2015 09:30 AM)
8/17/2015	DCHH	KARLA	Hearing result for Motion scheduled on 08/17/2015 09:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100
8/18/2015	MEOR	KARLA	Minute Entry and Order; Court deny Rule 35 Motion;s/ J Dunn 08/18/15

Defendant: Gas, Aman F

State of Idaho vs. Aman F Gas

Date	Code	User	Judge
8/24/2015	NOTC	DCANO	NOTICE OF LODGING received from Sheri L. Nothelphim on 8-24-15.
	MISC	DCANO	REPORTER'S TRANSCRIPTS RECEIVED IN COURT RECORDS ON 8-24-15 for the Following Hearings: Motion to Continue held 5-13-13 Motion for DNA testing held 6-17-13 Motion to Continue held 7-8-13 Motion to Continue held 8-12-13 Motion to Pay Expert held 9-16-13 Motion to Suppress held 4-9-14 Motion to Suppress held 4-28-14 Motion in Limini held 5-12-14 Motion held 5-19-14 Jury Trial held May 19 thru 22 Motion to Set Aside Verdict held 6-23-14 Motion Set Aside Verdict held 8-25-14 Motion Set Aside Verdict 8-25-14 Motion for Continuance held 11-3-14 Motion held 12-1-14 Motion held 12-15-14 Motion held 1-26-15
8/26/2015	NOTC	DCANO	THIRD AMENDED NOTICE OF APPEAL ON RULE 35; Kent V. Reynolds, Public Defender
	MOTN	DCANO	THIRD AMENDED MOTION TO APPOINT STATE APPELLATE DIVISION RE: Rule 35 Appeal
	MISC	DCANO	THIRD AMENDED CLERK'S CERTIFICATE OF APPEAL. Signed and Mailed to SC on 8-27-15.
8/27/2015	NOTC	DCANO	NOTICE OF LODGING: Received in Court Records on 8-26-15 by mail from Rodney M. Felshaw
	MISC	DCANO	REPORTER'S TRANSCRIPT RECEIVED in Court Records 8-26-15 for the following hearing: Sentencing held 4-13-15.
10/2/2015	MISC	DCANO	CLERK'S RECORD RECEIVED IN COURT RECORDS ON 10-5-15.

ORIGINAL

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTOR
P.O. BOX P
POCATELLO, ID 83205-0050
(208) 236-7280

JANIECE PRICE, ISB #7161
Deputy Prosecuting Attorney

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2013 JAN 22 AM 11:19

BY 
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN FARAH GAS,
XXX-XX-3799
05/03/1980

Defendant.

COMPLAINT - CRIMINAL


CP-2013-864.FE

Personally appeared before me this 22 day of January, 2013, JARED W. JOHNSON in the County of Bannock, who, first being duly sworn, complains of AMAN FARAH GAS and charges the defendant with the public offense of RAPE, Idaho Code §18-6101(4), committed as follows, to-wit:

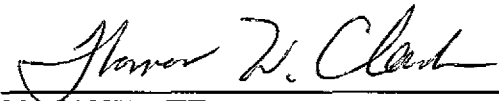
That the said AMAN FARAH GAS, County of Bannock, State of Idaho, on or about the 20th day of January, 2013, did penetrate with his penis the anal opening of a female person, Raushelle M. Goodin Guzman, overcoming her resistance with force or violence.

All of which is contrary to the form of the statute in said State made and provided and against the peace and dignity of the State of Idaho.

Said complainant prays that a Warrant be issued for the arrest of the said AMAN FARAH GAS that the defendant may be dealt with according to law.


JARED W. JOHNSON

SUBSCRIBED AND SWORN to before me this 22nd day of January, 2013.

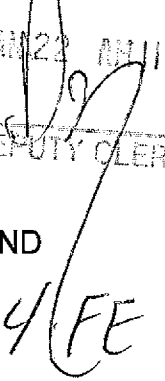

MAGISTRATE

ORIGINAL

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

MAGISTRATE DIVISION

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2013 JAN 22 AM 11:19
BY 
DEPUTY CLERK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN FARAH GAS,
XXX-XX-3799
05/03/1980

Defendant.

REQUEST FOR BOND

CF-2013-864 FE

We request a bond of \$30,000 be set for defendant, AMAN FARAH GAS, charged with the public offense of RAPE, Idaho Code § 18-6101(4), for the following reasons: due to the nature of the offense.

DATED this 22 day of January, 2013.


BANNOCK COUNTY PROSECUTOR

Case History**Bannock****27 Cases Found.****State of Idaho vs. Aman F Gas**
No hearings scheduledCase: **CR-2012-0014123-MD Magistrate** Judge: **Steven A Thomsen** Amount due: **\$204.50** Closed pending clerk action

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	09/05/2012	I18-8001(3) {M} Driving Without Privileges Officer: WEINHEIMER, JASON, 3000	906122423	Misdemeanor	Finding: Guilty Disposition date: 10/03/2012 Fines/fees: \$254.50 Jail: 10 days Suspended Jail: 8 days Other Confinement: 2 days

State of Idaho vs. Aman F Gas
No hearings scheduledCase: **CR-2012-0013691-MD Magistrate** Judge: **Steven A Thomsen** Amount due: **\$342.50** Closed pending clerk action

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	08/28/2012	I18-8001(3) {M} Driving Without Privileges Officer: HERRICK, LAUREN, 3000	913120154	Misdemeanor	Finding: Guilty Disposition date: 10/03/2012 Fines/fees: \$342.50 Jail: 10 days Suspended Jail: 8 days Other Confinement: 2 days

State of Idaho vs. Aman F Gas
No hearings scheduledCase: **CR-2012-0010834-MD Magistrate** Judge: **Gaylen L. Box** Amount due: **\$287.50** Closed pending clerk action

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	07/07/2012	Original: I18-8001(3) {M} Driving Without Privileges Amended: I49-301(1) Drivers License-Fail to Purchase or Invalid Officer: ORR, TODD, 1000	ISP0154482	Misdemeanor Misdemeanor	Finding: Guilty Other Finding: Disposition date: 09/20/2012 Fines/fees: \$337.50

State of Idaho vs. Aman F Gas
No hearings scheduledCase: **CR-2011-0002405-MD Magistrate** Judge: **Steven A Thomsen** Amount due: **\$524.50** Closed pending clerk action

took plea over counter per Kim; already has a no contact order.

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	02/17/2011	Original: I18-903 Battery Amended: M772-9.16.100 Disturbing The Peace Officer: CATES, GREG, 3000	9295966	Misdemeanor Misdemeanor	Finding: Guilty Disposition date: 12/08/2011 Fines/fees: \$564.50 Jail: 90 days Suspended Jail: 89 days Other Confinement:

1 day

Probation: Type:Supervised Term: 9 months
 To be completed by: 03/08/2013
 Probation completed on:
 Comply with terms of this order/all lawful requirements of Probation Officer (Agreement of Supervision)
 Commit No Misdemeanor or Felony.
 Must contact probation department within 5 days or immediately upon release from incarceration- 746 E. Lander, (208)236-7002
 Notify Court or Probation officer of change of address
 Obtain DVA within 45 days and complete recommendations
 No corporal punishment of children

02/17/2011 I18-1501(1) 9295967 Misdemeanor Finding: Dismissed on Motion of Prosecutor
 {M} Children-Injury To Child Disposition date: 12/08/2011
 Officer: CATES, GREG, 3000 Fines/fees: \$0.00

Pending bonds:	Entered	Type	Amount
	02/18/2011	Surety	\$300.00

Jerrijean S Gas vs. Aman F Gas

Case:CV-2009-0005017-DV Magistrate Filed: 12/16/2009 Subtype: Domestic Violence Judge: Thomas W Clark Status: Closed pending clerk action 04/07/2011
 (Case Sealed)
 Defendants: Gas, Aman F
 Plaintiffs: Gas, Jerrijean S

Erica Marie Floyd vs. Aman F Gas

Case:CV-2009-0000989-OC Magistrate Filed: 03/12/2009 Subtype: Other Claims Judge: Gaylen L. Box Status: Closed 08/26/2009
 Defendants: Gas, Aman F
 Plaintiffs: Floyd, Erica Marie

Disposition: Date	Judgment Type	Disposition Date	Disposition Type	Parties	In Favor Of
08/26/2009	Inactivity Dismissal			Gas, Aman F (Defendant), Floyd, Erica Marie (Plaintiff)	Defendant

Jerrijean S Gas vs. Aman F Gas

Case:CV-2009-0000003-DR Magistrate Filed: 01/02/2009 Subtype: Domestic Relations Judge: Thomas W Clark Status: Closed 09/29/2010
 Defendants: Gas, Aman F
 Plaintiffs: Gas, Jerrijean S

Disposition: Date	Judgment Type	Disposition Date	Disposition Type	Parties	In Favor Of
05/14/2009	Other:			Gas, Aman F (Defendant), Gas, Jerrijean S (Plaintiff)	All Parties

Comment: Partial Decree of Divorce RE: Child Support and Property Settlement.- parties granted divorce. Bifurcated Stipulation for Divorce, Child Support and Property Settlement Agreement is merged into decree. s/Naftz 5-14-09.

08/10/2009 Other: Gas, Aman F
(Defendant), Gas, Plaintiff
Jerrijean S (Plaintiff)

Comment: Partial Decree of Divorce RE Child Custody- Ordered the Bifurcated Stipulation for Child Custody is merged into the decree of divorce, and custody of the minor child is resolved pursuant to the stipulation: signed J Naftz 8/10/2009

Jerrijean S Gas vs. Aman F Gas

Case: **CV-2008-0004205-SC Magistrate** Filed: **10/17/2008** Subtype: **Small Claims** Judge: **Paul Laggis** Status: **Closed 11/21/2008**

Defendants: **Gas, Aman F**

Plaintiffs: **Gas, Jerrijean S**

Disposition: Date	Judgment Type	Disposition Date	Disposition Type	Parties	In Favor Of
11/21/2008	Money Judgment			Gas, Aman F (Defendant), Gas, Jerrijean S (Plaintiff)	Plaintiff
Comment:				\$715.00	

State of Idaho vs. Aman F Gas
No hearings scheduled

Case: **CR-2008-0015854-MD Magistrate** Judge: **Thomas W Clark** Amount due: **\$674.00** Closed pending clerk action

Charges: Violation Date Charge	Citation	Degree	Disposition
09/07/2008 I18-1501(2) Injury to Children- Conditions Other Than Great Harm/Death Officer: NELSON, IAN, 3000	9230918	Misdemeanor	Finding: Guilty Disposition date: 02/10/2009 Fines/fees: \$834.00 Jail: 180 days Suspended Jail: 131 days Other Confinement: 4 days Discretionary: 45 days

Probation: Type: Supervised Term: 8 months
To be completed by: 10/10/2009
Probation completed on: 10/10/2009 Probation completed
Comply with terms of this order/all lawful requirements of Probation Officer (Agreement of Supervision)
Commit no misdemeanor or felony
Notify Court or Probation Officer prior to changing address or phone number.
Must contact probation department within 5 days or immediately upon release from incarceration- 746 E. Lander, (208)236-7002
Abstain from use of alcohol or controlled substance
Submit to any testing for use of alcohol or controlled substances

when required
 Other: complete
 multi-week parenting
 course; p.o. may use
 discretionary time for
 SHARE, SCILD and
 community work service;
 p.o. may use GPS, alcohol
 ankle monitor and MEMS
 3000

Work when work is
 available, and shall not
 terminate any
 employment without the
 prior written approval of
 Probation Officer and shall
 not be terminated from
 employment for any
 reason within the
 Defendant's control. If
 unemployed, the
 Defendant shall be
 enrolled in a full-time
 vocational or educational
 program.

Not Frequent any
 establishment where the
 primary source of income
 is from the sale of alcohol.
 Shall submit to a search of
 your person, vehicle or
 residence without a
 search warrant.
 Undertake evaluations
 and/or counseling as may
 be recommended or
 required by Prob Officer,
 and shall thereafter abide
 by the recommendations
 or directives which result
 from said evaluation or
 cnsling.

09/16/2009 IPV Probation
 Violation-
 Misdemeanor
 Officer:
 NELSON, IAN,
 3000

Misdemeanor
 Finding: Dismissed
 By Court
 Disposition
 date: 11/30/2009
 Fines/fees: \$0.00

State of Idaho vs. Aman F Gas
 No hearings scheduled

Case: CR-2008-0010166-IN Magistrate Judge: Magistrate Court Clerk Amount due: \$0.00 Closed

Charges:	Violation Date	Charge	Citation	Degree	Disposition
06/18/2008	MPO-10.16.020	Speeding	9260358	Infraction	Finding: Guilty Disposition date: 06/30/2008 Fines/fees: \$75.00
06/18/2008	I49-1232	Insurance-Fail To Provide Proof Of Insurance	9260358	Infraction	Finding: Dismissed By Court Disposition date: 06/30/2008 Fines/fees: \$0.00

State of Idaho vs. Aman F Gas
 No hearings scheduled

Case: CR-2008-0003484-IN Magistrate Judge: Magistrate Court Clerk Amount due: \$0.00 Closed

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	03/01/2008	I49-604 Backing-violations	9258828	Infraction	Finding: Guilty
		Officer: HORST, CHAD, 3000			Disposition date: 03/28/2008
					Fines/fees: \$75.00

State of Idaho vs. Aman F Gas

No hearings scheduled

Robert C.

Case: CR-2008-0003336-MD Magistrate Judge: Naftz (Magistrate) Amount due: \$1,396.00 Closed pending clerk action

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	03/01/2008	I18-920 No Contact Order-violation Of	9258826	Misdemeanor	Finding: Guilty
		Officer: HORST, CHAD, 3000			Disposition date: 04/29/2008
					Fines/fees: \$693.00
					Jail: 180 days
					Suspended Jail: 177 days
					Credited time (Yes): 3 days

Probation: Type: Record Check
 Term: 30 days, 15 months
 To be completed by: 08/28/2009
 Probation completed on: 08/28/2009 Probation completed
 Comply with terms of this order/all lawful requirements of Probation Officer (Agreement of Supervision)
 Commit no misdemeanor or felony
 Notify Court or Probation Officer prior to changing address or phone number. Must contact probation department within 5 days or immediately upon release from incarceration- 746 E. Lander, (208)236-7002
 Abstain from use of alcohol or controlled substance
 Submit to any testing for use of alcohol or controlled substances when required
 Other: complete DVE within 30 days and follow recommendations; p.o. may use discretionary time for SCILD and community work service
 Work when work is available, and shall not terminate any employment without the prior written approval of Probation Officer and shall not be terminated from employment for any reason within the Defendant's control. If unemployed, the Defendant shall be enrolled in a full-time vocational or educational program.
 Not Frequent any

establishment where the primary source of income is from the sale of alcohol. Shall not purchase, carry or have in possession any firearms and/or other weapons. Shall submit to a search of your person, vehicle or residence without a search warrant. Undertake evaluations and/or counseling as may be recommended or required by Prob Officer, and shall thereafter abide by the recommendations or directives which result from said evaluation or cnsling.

<p>03/01/2008 Original: 9258827 Misdemeanor I49-1301 Misdemeanor Accident-fail Stop Damage Accident/leave Scene Amended: I49-1303 Accident-fail Notify Upon Striking Unattended Veh Officer: HORST, CHAD, 3000</p>	<p>Finding: Guilty Disposition date: 04/29/2008 Fines/fees: \$273.00</p>
<p>04/03/2009 CPV Probation- violation Misd Officer: HORST, CHAD, 3000</p>	<p>Misdemeanor Finding: Guilty Disposition date: 05/28/2009 Fines/fees: \$0.00</p>

State of Idaho vs. Aman F Gas
No hearings scheduled

Robert C.

Case: CR-2008-0002502-MD Magistrate Judge: Naftz Amount due: \$301.00 Closed pending clerk action
(Magistrate)

Charges: Violation Date Charge	Citation	Degree	Disposition
02/13/2008 Original: I18-918(3)(B) {M} Battery- Domestic Violence Amended: MPO-9.16.100 Disturbing The Peace Officer: Storrier, Michael, 3000	9257534	Misdemeanor Misdemeanor	Finding: Guilty Disposition date: 04/29/2008 Fines/fees: \$552.40 Jail: 180 days Suspended Jail: 133 days Credited time (Yes): 2 days Discretionary: 45 days

Probation: Type: Record Check
Term: 30 days, 15 months
To be completed by:
08/28/2009
Probation completed on:
08/28/2009 Probation
completed
Comply with terms of this
order/all lawful
requirements of Probation
Officer (Agreement of
Supervision)
Commit no misdemeanor
or felony
Notify Court or Probation

Officer prior to changing address or phone number. Must contact probation department within 5 days or immediately upon release from incarceration- 746 E. Lander, (208)236-7002
 Abstain from use of alcohol or controlled substance
 Submit to any testing for use of alcohol or controlled substances when required
 Other: complete DVE within 30 days and follow recommendations; p.o. may use discretionary time for SCILD and community work service
 Work when work is available, and shall not terminate any employment without the prior written approval of Probation Officer and shall not be terminated from employment for any reason within the Defendant's control. If unemployed, the Defendant shall be enrolled in a full-time vocational or educational program.
 Not Frequent any establishment where the primary source of income is from the sale of alcohol. Shall not purchase, carry or have in possession any firearms and/or other weapons.
 Shall submit to a search of your person, vehicle or residence without a search warrant.
 Undertake evaluations and/or counseling as may be recommended or required by Prob Officer, and shall thereafter abide by the recommendations or directives which result from said evaluation or cnsling.

04/03/2009 CPV Probation-violation Misd
 Officer:
 Pocatello Police,,
 3000

Misdemeanor

Finding: Guilty
 Disposition
 date: 08/28/2009
 Fines/fees: \$0.00

Idaho Department of Health & Welfare vs. Aman F Gas, etal.

Case: CV-2007-0005189-OC Magistrate Filed: 12/06/2007 Subtype: Other Claims Judge: Rick Carnaroli Status: Closed 02/18/2009

Defendants: Floyd, Erica Marie Gas, Aman F
 Plaintiffs: Idaho Department of Health & Welfare

Disposition: Date	Judgment Type	Disposition Date	Disposition Type	Parties	In Favor Of
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07/10/2008 Child Support
Gas, Aman F
(Defendant), Idaho Department of Health & Welfare (Plaintiff) Plaintiff

02/18/2009 Child Support
Gas, Aman F
(Defendant), Floyd, Erica Marie
(Defendant), Idaho Department of Health & Welfare (Plaintiff) Defendant

Comment: Child support modification: s/J Carnaroli

State of Idaho vs. Aman F Gas
No hearings scheduled

Case: **CR-2007-0004779-MD** Magistrate Judge: **Magistrate Court Clerk** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	03/18/2007	I49-301(1) Drivers License-Fail To Purchase/ Invalid Officer: WESTFALL, STEVEN, 3000	9246521	Misdemeanor	Finding: Guilty Disposition date: 03/27/2007 Fines/fees: \$153.00

State of Idaho vs. Aman F Gas
No hearings scheduled

Case: **CR-2005-0009525-IN** Magistrate Judge: **Magistrate Court Clerk** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	06/01/2005	I49-641 Turn-vehicle Turning Left-fail Yield Right Of Way Officer: Pocatello Police,, 3000	9226887	Infraction	Finding: Guilty Disposition date: 06/23/2005 Fines/fees: \$53.00

State of Idaho vs. Aman F Gas
No hearings scheduled

Case: **CR-2005-0002956-IN** Magistrate Judge: **Magistrate Court Clerk** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	02/20/2005	I49-1232 Insurance-fail To Provide Proof Of Insurance Officer: IDAHO STATE POLICE,, 1000	1081227	Infraction	Finding: Guilty Disposition date: 02/24/2005 Fines/fees: \$107.50

State of Idaho vs. Aman F Gas
No hearings scheduled

Case: **CR-2004-0014520-IN** Magistrate Judge: **Magistrate Court Clerk** Amount due: **\$0.00** Closed

Charges:	Violation Date	Charge	Citation	Degree	Disposition
	09/18/2004	I49-1232 Insurance-fail To Provide Proof Of Insurance Officer: Hemsley, Aaron, 3000	9217834	Infraction	Finding: Guilty Disposition date: 09/27/2004 Fines/fees: \$107.50

State of Idaho vs. Aman F Gas
No hearings scheduled

Case: **CR-2004-0011570-IN** Magistrate Judge: **Magistrate Court Clerk** Amount due: **\$0.00** Closed

Charges: Violation Date Charge Citation Degree Disposition

07/26/2004 I49-673 Safety Restraint-fail To Use **9217286 Infraction** **Finding: Guilty**

Officer: FREI, DOUG, 3000 **Disposition date: 08/09/2004**

Fines/fees: \$10.00

Idaho Department of Health & Welfare vs. Aman F Gas, etal.

Case: **CV-2004-0000474-OC** Magistrate Filed: **02/04/2004** Subtype: **Other Claims** Judge: **Robert C. Naftz (Magistrate)** Status: **Closed 03/01/2004**

Defendants: **Gas, Aman F Odonnell, Crystal Lynae**
 Plaintiffs: **Idaho Department of Health & Welfare**

Disposition: Date	Judgment Type	Disposition Date	Disposition Type	Parties	In Favor Of
03/01/2004	Dismissal of Case			Idaho Department of Health & Welfare (Plaintiff)	Plaintiff
Comment:				(Dropped)	
03/01/2004	Dismissal of Case			Idaho Department of Health & Welfare (Plaintiff)	Plaintiff
Comment:				(Dropped)	

Aman F Gas vs. Crystal L O'Donnell

Case: **CV-2004-0000199-DR** Magistrate Filed: **01/16/2004** Subtype: **Domestic Relations** Judge: **Rick Carnaroli** Status: **Closed 04/10/2009**

Defendants: **O'Donnell, Crystal L**
 Plaintiffs: **Gas, Aman F**

Disposition: Date	Judgment Type	Disposition Date	Disposition Type	Parties	In Favor Of
02/10/2004	Divorce			O'Donnell, Crystal L (Defendant), Gas, Aman F (Plaintiff)	Plaintiff
Comment:				(All Parties)	
02/10/2004	Divorce			O'Donnell, Crystal L (Defendant), Gas, Aman F (Plaintiff)	Plaintiff
Comment:				(All Parties)	

State of Idaho vs. Aman F Gas
No hearings scheduled

Case: **CR-2003-0015000-MD** Magistrate Judge: **Dan C. McDougall** Amount due: **\$0.00** Closed

Charges: Violation Date Charge Citation Degree Disposition

08/27/2003 I39-6312 **9204834 Misdemeanor** **Finding: Dismissed By Prosecutor**

Domestic Violence-violation Of Protection Order **Disposition date: 09/10/2003**

Officer: DANIELS, MARK, 3000 **Fines/fees: \$50.00**

Pending bonds: Entered Type Amount

08/29/2003 Surety \$1,000.00

Aman F Gas vs. Crystal Lynae Odonnell

Case: **CV-2003-0003838-DR** Magistrate Filed: **08/11/2003** Subtype: **Domestic Relations** Judge: **Gaylen L. Box** Status: **Closed 08/26/2003**

Defendants: **Odonnell, Crystal Lynae**
 Plaintiffs: **Gas, Aman F**

State of Idaho vs. Aman F Gas
No hearings scheduled

Case: **CR-2003-0014012-MD Magistrate** Judge: **Dan C. McDougall** Amount due: **\$0.00** Closed

Charges: Violation Date Charge	Citation	Degree	Disposition
08/07/2003 I18-920 No Contact Order-violation Of Officer: Pocatello Police,, 3000	9205503	Misdemeanor	Finding: Dismissed By Prosecutor Disposition date: 09/10/2003 Fines/fees: \$52.00

Crystal Lynae Odonnell vs. Aman F Gas

Case: **CV-2003-0003785-DV Magistrate** Filed: **08/07/2003** Subtype: **Domestic Violence** Judge: **Rick Carnaroli** Status: **Closed 03/13/2007**
 (Case Sealed)
 Defendants: **Gas, Aman F**
 Plaintiffs: **Odonnell, Crystal Lynae**

State of Idaho vs. Aman F Gas
No hearings scheduled

Case: **CR-2003-0013813-MD Magistrate** Judge: **Dan C. McDougall** Amount due: **\$0.00** Closed

Charges: Violation Date Charge	Citation	Degree	Disposition
08/05/2003 I39-6312 Domestic Violence-violation Of Protection Order Officer: DANIELS, MARK, 3000	9192910	Misdemeanor	Finding: Guilty Disposition date: 09/10/2003 Fines/fees: \$231.50

State of Idaho vs. Aman F Gas
No hearings scheduled

Case: **CR-2003-0011938-MD Magistrate** Judge: **Dan C. McDougall** Amount due: **\$0.00** Closed

Charges: Violation Date Charge	Citation	Degree	Disposition
07/04/2003 Original: I18-918(5) {M} Battery-domestic Violence Amended: I18-903 Battery Officer: WHITNEY, TRENT, 3000	9190610	Misdemeanor Misdemeanor	Finding: Guilty Disposition date: 09/10/2003 Fines/fees: \$631.50 Jail: 120 days Suspended Jail: 120 days

Probation: Type: **Supervised - Level 1**
 Term: **12 months**
 To be completed by: **09/10/2004**
 Probation completed on: **09/10/2004** Probation completed
 Comply with terms of this order and probation officer
 Commit no misdemeanor of felony
 Notify Court or Probation officer of change of address
 Must contact probation department within 5 days or immediately upon

**release from incarceration
Do not drive without
insurance
Defendant to complete
26-week anger
management/batterer's
treatment**

Connection: Secure

ORIGINAL

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE COUNTY
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

FILED
CLERK OF THE COURT
2013 JAN 22 AM 11:19

STATE OF IDAHO,
Plaintiff,

vs.

AMAN FARAH GAS,
XXX-XX-3799
05/03/1980

Defendant.

CASE NO.
DEPUTY CLERK

AFFIDAVIT OF PROBABLE
CAUSE

CP-2013-864JE


STATE OF IDAHO,)
COUNTY OF BANNOCK) ss

JARED W. JOHNSON, being first duly sworn, deposes and says that:

I am a Deputy Prosecutor with the Bannock County Prosecutor's Office. I have conducted an investigation regarding AMAN FARAH GAS. Based on that investigation, I have requested a Sixth District Magistrate Judge to make a determination of probable cause to hold or set bond on the above-named defendant for the public offense of RAPE, a violation of I.C. § 18-6101(4).

The basis for the request is the information set forth in a supplementary police report which is designated as Exhibit "A" attached hereto. I further depose and say that I have read Exhibit "A" and all the contents are true to the best of my knowledge, and that I personally know the author of that report to be a law enforcement officer whom I believe to be credible and reliable.

DATED this 22 day of January, 2013.


JARED W. JOHNSON

STATE OF IDAHO)
COUNTY OF BANNOCK) ss

JARED W. JOHNSON, known to me to be the person whose name is subscribed to the within instrument, acknowledged to me that he has executed the same and that he read the same and that the same was true to the best of his knowledge.

DATED this 22nd day of January, 2013.


NOTARY/MAGISTRATE

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Incident #: 13-P01084

LAW INCIDENT:

Nature: ASSAULT Address: 425 HYDE AVE
Location: City: Pocatello ST: ID Zip: 83201

Offense Codes: SAFR SAFS
Received By: LOWTHER, A How Received: 911 Line Agency: PPD
Rspndg Officers: ELDRIDGE, J PETERSON, S SHUTES, M LAMBSON,
Rspnsbl Officer: MARSHALL, T Disposition: Clrd Adult Arrest on 01/21/13
When Reported: 03:43:25 01/20/13
Occurred: Between 03:43:00 01/20/13 and 09:58:00 01/20/13

VICTIMS:

NAME: GOODIN GUZMAN, RAUSHELLE M Name Number: 222084
Race: U Sex: F DOB: [REDACTED]
Address: 145 HILCREST; #38, AMERICAN FALLS, ID 83211
Home Phone: () - Work Phone: (208)269-0498 mes

WITNESSES:

NAME: OGOLLA, ANDREA N. Name Number: 104594
Race: W Sex: F DOB: [REDACTED]
Address: 425 HYDE AVE, Pocatello, ID 83201
Home Phone: (208)226-6296 Work Phone: (208)240-5854

NAME: SAMMONS, RICHARD T Name Number: 204845
Race: W Sex: M DOB: [REDACTED]
Address: 3132 neeley, AMERICAN FALLS, ID 83211
Home Phone: (208)269-0498 Work Phone: () -

NAME: DWIVEDI, ABHISHEK Name Number: 260041
Race: Sex: M DOB: [REDACTED]
Address: 1222 FREEMAN LN; #139, Pocatello, ID 83201
Home Phone: (208)240-7736 Work Phone: () -

SUSPECTS:

NAME: GAS, AMAN F. Name Number: 238533
Race: B Sex: M DOB: [REDACTED]
Height: 6'01" Weight: 200 Hair: BLK Eyes: BRO
Address: 425 HYDE AVE, Pocatello, ID 83201
Home Telephone: (208)240-8826 Work Telephone: () -

PROPERTY INFORMATION:

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Incident #: 13-P01084

Item Type: DVD	Property Number: P147040
Item/Brand: INTERVIEW	Model: AMAN GAS
Serial Number:	Color: /
Characteristics:	
Quantity: 1	Meas: Total Value: 0.00
Local Status: Evidence in Storage	
Owner ID Number: 238533 Owner Name: GAS, AMAN	

INTERVIEW OF AMAN GAS ON 01-20-13 AT THE POCA TELLO P.D.

NARRATIVE:

OFFICER: BROWN #5237 DICTATED: 01/20/13 @ 1138 HRS

INVESTIGATIVE TIME: 8 HRS
LAW INCIDENT #: 13-P01084
STENO INITIALS: PF
DATE & TIME
TRANSCRIBED: 01/20/13 @ 1229 HRS

#16 - SEXUAL OFFENSE:

1. BRIEF SYNOPSIS OF THE OFFENSE:

On 10/20/12 at approximately 0343 hours, officers were dispatched to 425 Hyde Avenue in reference to a possible sexual assault at that location. Officers were advised that RICHARD J. SAMMONS was on scene with his daughter, RAUSHELLE GOODIN-GUZMAN, who was reporting being raped at that address. Upon further investigation into the incident a male subject by the name of AMAN F. GAS was later arrested for Rape.

2. PREMISES LOCATION AND DESCRIPTION:

The premise is 425 Hyde Avenue with a basement apartment.

3. FIRST PERSON NOTIFIED BY THE VICTIM:

The first person notified by the victim was her father, RICHARD J. SAMMONS.

4. SUSPECT/VICTIM RELATIONSHIPS:

Acquaintances - had met 3-4 times previously.

5. WEAPONS OR FORCE USED:

There was no force used; the female was asleep.

6. MEDICAL TREATMENT; WHEN, WHERE, BY WHOM:

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Medical treatment was provided by Portneuf Medical Center on 01/20/13 at approximately 0415 hours, by SANE Nurse ANN WILCOX.

7. DOCUMENTS OF EVIDENCE TO BE FILED IN RECORDS:
(STATEMENTS, RIGHTS FORMS, ANY FORMS, LATENTS, PHOTOS, ETC.)

RELEASE FORM: One Authorization for Release of Medical Information form signed by RAUSHELLE GOODIN-GUZMAN placed into the Records basket

PHOTOGRAPHS: Two digital photographs taken at the hospital uploaded into the Files section of Spillman under this LI as follows:

-Photograph number 001 is an overall photograph of GOODIN-GUZMAN prior to medical treatment, front view.

-Photograph number 002 is GOODIN-GUZMAN prior to medical treatment, rear view.

RECORDINGS: Four digital audio recordings of interviews uploaded into the Files section of Spillman under this LI as follows:

-Goodin GUZMAN Hyde St.WMA

-Goodin GUZMAN PMC 1.WMA

-Goodin GUZMAN PMC 2 and Dwivedi PMC.WMA

-Goodin GUZMAN PMC 3.WMA

8. VICTIM(S) INTERVIEW(S):

See Additional Information Not Previously Stated

9. WITNESS(ES) OBSERVATIONS:

See Additional Information Not Previously Stated

10. SUSPECT(S) INTERVIEW(S) / INFORMATION:

On 01/20/13 at approximately 0343 hours, officers were dispatched to 425 Hyde Avenue in reference to a possible sexual assault that had occurred at that location. Officers were advised that RICHARD J. SAMMONS was on scene with his daughter, RAUSHELLE GOODIN-GUZMAN, who was reporting being raped at that address and they were waiting out front in a vehicle. Officer SHUTES and Officer LAMBSON arrived on scene and I arrived shortly thereafter. When I arrived Officer SHUTES was speaking with SAMMONS in the street in front of 425 Hyde Avenue. In speaking with them, they advised that GOODIN-GUZMAN was in a vehicle parked along the west side of the road in front of 425 Hyde Avenue, the vehicle being a silver 2003 Saab four-door bearing Idaho license plate 1BT6724.

I went to the vehicle and contacted GOODIN-GUZMAN who was sitting in the passenger seat. She was very upset and crying. I asked her very briefly what had taken place. She indicated she had been in the house and was asleep when "He started messing with me." and "He put it in my butt." I asked her who she was referring to and she said she only knew him by his first name, AMAN, later identified as AMAN F. GAS. The driver of the Saab was GOODIN-GUZMAN'S friend, ABHISHEK DWIVEDI. I asked GOODIN-GUZMAN if she would be willing to go to the hospital to be seen by a nurse. She said she would and DWIVEDI agreed to take her there. From there I followed DWIVEDI and GOODIN-GUZMAN to the Portneuf Medical Center Emergency Room. We were moved into Emergency Room number 7 where

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I spoke with GOODIN-GUZMAN further about what had happened.

GOODIN-GUZMAN stated she arrived at 425 Hyde, the basement apartment around 1730 hours and stayed until 1830 hours when she left with DWIVEDI. She returned to the residence of 425 Hyde and was dropped off by DWIVEDI. When she got back to the residence around 2000 hours there was her friend ANDREA (OGOLLA) whom she described as an approximately 24-year-of-age white female, OGOLLA'S mom MONIQUE whom she described as a white female but did not know how old, ADRIAN (unknown spelling) whom she described as an approximately 28-year-of-age black male, and AMAN (GAS) whom she described as an approximately 25-year-of-age black male. GOODIN-GUZMAN continued that they were at the house drinking and watching movies. One of them was the movie Men in Black 3.

At one point GOODIN-GUZMAN tried getting OGOLLA to go out, possibly to a bar, but OGOLLA did not want to go. GOODIN-GUZMAN said she talked with GAS at that point jokingly about going out but that was the only conversation they had throughout the night. GOODIN-GUZMAN said she did not know GAS real well but she had met him three to four times and knew him on sight. GOODIN-GUZMAN continued that at some point during the evening she fell asleep or passed out on a couch in the living room. She said she had an orange fleece blanket over her. She could not state what time she went to sleep but said she remembered what time the incident happened and she thought it was around 2330 hours.

GOODIN-GUZMAN said she was asleep when she saw a black outline standing by the couch over her. She was lying on her right side and he was standing in the area of her mid-section. She showed me by pointing at the area of where he was standing. She said GAS stuck his fingers in her mouth. Then he started fingering around her butt and tried getting her pants down, eventually pulling them down below her butt cheeks. GOODIN-GUZMAN said that throughout the initial parts of the incident she was not sure what was happening. She thought she was dreaming or something and she remembered looking back, seeing GAS, and then rolling back over on the couch. At one point she remembered swatting her left hand back but did not hit anything. She said that after she rolled back he "stuck it in!" I clarified with GOODIN-GUZMAN that he stuck his penis in her butt and she said, "Yes!" She also said that before he stuck "it in" he spit on her butt. GOODIN-GUZMAN continued that he "went up and down" about three times.

I confirmed that she meant undulating and she said, "Yes!" I asked GOODIN-GUZMAN if she felt any pain and she said, "Yes!" GOODIN-GUZMAN continued that once he "stuck it in" it really hurt and it woke her up and she realized she was not dreaming and she realized at that point what was happening.

GOODIN-GUZMAN said she told GAS, "No! I have to go to the bathroom!" GOODIN-GUZMAN said she got off the couch, got into the bathroom, and locked herself inside. When she used the toilet she noticed there was blood in the bowl. She stayed locked in the bathroom until her friend OGOLLA came to the door and told her she needed to use the bathroom. At that point GOODIN-GUZMAN went directly into OGOLLA'S room, got OGOLLA'S phone from the nightstand, and once OGOLLA was done in the bathroom, locked herself back in and started Facebooking people for help. She said she sent a Facebook message to friends JAKE, CHRIS, and JASON asking for help and then put an update on her own Facebook page asking for help. She got a message back from her father, SAMMONS, over Facebook and then was able to call DWIVEDI on his cell phone from OGOLLA'S phone. Once GOODIN-GUZMAN was able to get DWIVEDI and SAMMONS en route to help her she left the bathroom, put OGOLLA'S phone down on the table, gathered her shoes and a coat, and left the residence and waited outside near the

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intersection of Pine Street and Hyde Avenue. GOODIN-GUZMAN also said that on her way out the door of the house she saw GAS laying on the couch in the living room.

I spoke with GOODIN-GUZMAN a few minutes later after a nurse spoke with her, to clarify when the incident on the couch had occurred. GOODIN-GUZMAN had originally said it happened around 2330 hours but after speaking with her again she said she honestly could not remember what time it happened. At that point I spoke with DWIVEDI in the lobby of Portneuf Medical Center. He said he dropped GOODIN-GUZMAN off at 425 Hyde around 2030 hours and then he went home. He got a call he thought around 0300 hours from GOODIN-GUZMAN from OGOLLA'S phone telling him she had been raped. GOODIN-GUZMAN told DWIVEDI she wanted him to come and get her and that she was locked in the bathroom. I had DWIVEDI confirm the time on his phone and the call from GOODIN-GUZMAN came in at 0341 hours and OGOLLA'S phone number was 208-240-5854.

I also spoke with SAMMONS briefly in the lobby and he indicated that his first Facebook response to GOODIN-GUZMAN'S update and request for help was at 0321 hours.

At approximately 0650 hours at the request of Detective MARSHALL I spoke with DWIVEDI again in the lobby. He stated he and GOODIN-GUZMAN were former boyfriend and girlfriend and that they had consensual sex earlier in the evening around 1930 hours while at a friend's house that was about four to five houses away from the address on Hyde Avenue. DWIVEDI said it was normal vagina sex, one time where he used a condom.

At approximately 0712 hours I spoke with GOODIN-GUZMAN and she confirmed that she and DWIVEDI were on again/off again boyfriend and girlfriend, they had consensual sex around 1900 hours at a friend's house named VIJAY on Pine Street, and it was vaginal sex, two encounters, where DWIVEDI used a condom on the first time, not on the second.

After completing my interviews with GOODIN-GUZMAN and DWIVEDI, I remained at the hospital with GOODIN-GUZMAN while she was seen by SANE Nurse ANN WILCOX. Detective MARSHALL arrived on scene and took possession of all physical evidence obtained by WILCOX. Once WILCOX and Detective MARSHALL were completed, GOODIN-GUZMAN left the hospital with SAMMONS and DWIVEDI.

Once completed at the hospital I returned to the Pocatello Police Station and cleared from the call. At this time there is no further information. See Detective MARSHALL'S report for additional information regarding this incident.

End of report

SUPPLEMENTAL NARRATIVE:

ARREST:

AFFIDAVIT OF PROBABLE CAUSE

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Incident #: 13-P01084

ARREST REPORT

Date: 01-20-13

Time: 0957

Officer: T. MARSHALL #5203

Arrestees Name: GAS, AMAN F

Charge: RAPE - 18-6101

Citation #:

Bond: NO BOND

LI#: 13-P01084

SYNOPSIS:

On 01-20-13 at approximately 0343 hours, RICHARD SAMMONS reported that his daughter had been raped at 425 Hyde Ave earlier this morning. Cpl. BROWN made contact with the victim, RAUSHELLE GOODIN-GUZMAN outside the residence while she was sitting in her friend's vehicle. Cpl. BROWN spoke to her briefly and she agreed to go to the hospital for a sexual assault exam. GOODIN-GUZMAN was transported by her friend, ABHISHEK DWIVEDI, to the Portneuf Medical Center (PMC) Emergency Room. Cpl. BROWN then interviewed GOODIN-GUZMAN while at PMC and she said the following: She had arrived at her friend ANDREA OGOLLA's house, located at 425 Hyde - Basement apartment, at approximately 2000 hours on 01-19-13. There were several people at the apartment and they were watching movies. GOODIN-GUZMAN admitted that she had been consuming alcoholic beverages throughout the night, and at some point, she fell asleep on the couch in the living room. Sometime later, she had partially woke up but thought that she was still dreaming. She was laying on her right side so that she was facing the back of the couch. She saw a black male standing behind her, near her mid-section. The male put his finger into her mouth and then placed his hand down the back of her pants and placed his finger near her "butt." The male tried to pull her pants down. He was able to get her pants pulled down just below her "butt cheeks." During this time, GOODIN-GUZMAN saw the male "spit" on her "butt" area. GOODIN-GUZMAN rolled over slightly so that she could look behind her and noticed that the male subject was AMAN GAS. GAS is her friend OGOLLA's roommate and has met him on several occasions. GOODIN-GUZMAN then rolled back onto her side, still thinking that she was dreaming. At this point, GAS put his penis inside her anus and "pumped" approximately three times. The pain that this caused to GOODIN-GUZMAN caused her to wake up fully and realize that she was not dreaming. She told GAS "NO, I have to go to the bathroom." She then went to the bathroom and locked the door. While in the bathroom, GOODIN-GUZMAN urinated and when she looked into the toilet bowl, she noticed some blood. GOODIN-GUZMAN stayed in the bathroom until OGOLLA knocked on the door and needed to use the bathroom. GOODIN-GUZMAN exited the bathroom and went to OGOLLA's bedroom and closed the door. She does not have a cell phone of her own and so she used OGOLLA's phone that was located in the bedroom. GOODIN-GUZMAN tried to facebook message her father asking for help. She also tried to call DWIVEDI. She was able to get a hold of DWIVEDI at approximately 0341 hours on 01-20-13. GOODIN-GUZMAN told DWIVEDI that she had been raped and that she needed help. DWIVEDI agreed to come and pick her up. She was also able to get a hold of her father, SAMMONS, by Facebook messaging. He told her that he was on his way to get her as well. This occurred at approximately 0321 hours on 01-20-13. GOODIN-GUZMAN grabbed her shoes and coat and left the apartment. She waited near the intersection of Hyde and Pine until SAMMONS and DWIVEDI arrived. For further information on this see the recorded interview completed by Cpl. BROWN.

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I made contact with the SANE Nurse that completed the Sexual Assault Exam on GOODIN-GUZMAN. She informed me that there were two tears in the area of GOODIN-GUZMAN's anus. There was also an injury that started on the outside of the anus area and ends inside.

Patrol officers were able to make contact with AMAN GAS at 425 Hyde Ave. He agreed to go to the Pocatello Police Department voluntarily to speak to officers about this incident. He was given a voluntary transport. Upon my contact with GAS inside the interview room, I informed him that he was not under arrest and free to leave at any point. I also informed him that if he no longer wished to speak to the police to tell me. GAS agreed to speak to me about this incident. He said that he had been watching movies throughout the evening. He said that GOODIN-GUZMAN arrived at the apartment at approximately 1700 hours on 01-19-13. She was there for a while and then was picked up by, DWIVEDI. A few hours later GOODIN-GUZMAN returned to the residence. GAS could not remember what time she got back. He also said that everyone at the apartment had been drinking alcoholic beverages throughout the night and that included GOODIN-GUZMAN. Gas told me that while watching a movie, GOODIN-GUZMAN sat down next to him on the couch. She then laid down on the couch, putting her head on his thigh. She also reached up and grabbed his hand and held it near her chest. GAS said that later, he left to go to Hooligans bar with OGOLLA. He said that GOODIN-GUZMAN did not go with them. He got a ride home from a friend at approximately 0300 hours on 01-20-13. He walked into the apartment through the kitchen door and into the living room. GAS noticed that GOODIN-GUZMAN was "passed out" on the couch. The couch is described as being an "L" shaped couch. GOODIN-GUZMAN was lying on the side near the kitchen door. GAS could not remember what direction GOODIN-GUZMAN head was pointed or how she was laying on the couch. He said that he took off his shoes and his shirt and laid down on the other end of the couch, covered himself with a blanket and then fell asleep. He was adamant that he could not remember anything from this point, until the police knocked on the door. GAS was informed that GOODIN-GUZMAN was at the hospital with injuries that she claimed were from him. And that these injuries were from a possible rape. GAS then told me that he wanted to leave. I stepped out of the interview room where I made contact with Cpl. BROWN who was still at PMC with GOODIN-GUZMAN. Cpl. BROWN told me that the SANE Nurse was currently with GOODIN-GUZMAN for the Sexual Assault Exam. Based on the corroborating information that Cpl. BROWN advised me, I then decided to detain GAS. I then informed GAS that based on all the information I had at this time, he was being detained. I also read him the Adult Rights Form and asked if he wished to talk to me without a lawyer present. He agreed to sign the Adults Rights Form and to talk to me without a lawyer present. He was asked to submit to a penis swab and scrapings from under his fingernails for DNA evidence. He agreed to this testing. He was transported to PMC where a SANE Nurse completed this evidence collection. I then brought Gas back to the Pocatello P.D. where I spoke to him some more about this incident. GAS was adamant that he was not involved in the rape. GAS was then advised that he was under arrest for Rape and transported to the Bannock County Jail where he was incarcerated. For full details on this interview with GAS, see the DVD that was placed into evidence. tm

State of Idaho)
)
County of Bannock) ss

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Incident #: 13-P01084

T. MARSHALL #5203 being first duly sworn, deposes and says that I am a law enforcement officer with POCA TELLO POLICE DEPARTMENT. I have conducted an investigation regarding AMAN F GAS. Based on that investigation, I request a Sixth District Judge to make a determination of probable cause to arrest, hold or set bond on the above named defendant for the public offense of RAPE, a violation of I.C. 18-6101. The basis for this request is the information set forth in a police report which is designated as Exhibit "A" attached or within hereto. I further depose and say that I have read Exhibit "A" and all the contents are true to the best of my knowledge, and that I personally know the author of that report to be a law enforcement officer whom I believe to be credible and reliable.

Dated this 20th day of January, 2013

Officer signature _____ Pocatello Police Dept.

State of Idaho)
)
County of Bannock) ss

T. MARSHALL #5203, known to me to be the person whose name is subscribed to this Affidavit of Probable Cause, acknowledged to me that s/he has read and executed the document/s and the contents are true to the best of her/his knowledge.

Subscribed and sworn before me this 20th day of January, 2013

Notary Public

Commission expires on _____

Detailed Report to follow.

SUPPLEMENTAL NARRATIVE:

OFFICER: BUCK #5162 DICTATED: 01/20/13 @ 0630 HRS
INVESTIGATIVE TIME: 1 HR
LAW INCIDENT #: 13-P01084
STENO INITIALS: PF
DATE & TIME TRANSCRIBED: 01/20/13 @ 0958 HRS

1. DOCUMENTS OF EVIDENCE TO BE FILED IN RECORDS:

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Incident #: 13-P01084

(STATEMENTS, RIGHTS FORMS, LATENTS, PHOTOS, ETC.)

RECORDING: A digitally recorded interview between Sergeant BUCK, Officer SHUTES, and the suspect, AMAN GAS labeled Ogolla.msv uploaded into the Files section of Spillman under this LI

2. NARRATIVE:

On 01/20/13 at approximately 0400 hours, I responded to 425 Hyde to assist Officer SHUTES and Officer ELDRIDGE with a report of a sexual assault. Upon arrival I made contact with ANDREA OGOLLA in the basement apartment. I asked if she was familiar with a girl named RAUSHELLE. She advised that she was friends with RAUSHELLE. I told OGOLLA that RAUSHELLE had reported being injured this evening and asked OGOLLA to help me figure out where RAUSHELLE had been. OGOLLA told me she lives at 425 Hyde with her roommate, AMAN GAS, and her mother, MONIQUE HAMBLIN. OGOLLA advised that all three of them were at home on 01/19/13 at approximately 1930 hours, when RAUSHELLE was dropped off at the residence on Hyde. OGOLLA advised that for approximately the next hour RAUSHELLE used OGOLLA'S phone to text her boyfriend who OGOLLA knew only as AADI with a phone number of 240-7736. OGOLLA advised that all four of the subjects were drinking at the residence on Hyde. She stated that RAUSHELLE drank two Corona beers and one shot of vodka.

At approximately 2030 hours AADI arrived outside the residence on Hyde to pick up RAUSHELLE. According to OGOLLA, AADI did not come inside because he did not feel he could face RAUSHELLE'S friends since AADI had just gotten married to someone else. According to OGOLLA, RAUSHELLE returned to the residence of 425 Hyde at approximately 2200 hours and passed out on the couch in the living room. OGOLLA pointed to the couch where RAUSHELLE had fallen asleep. The couches in this case are arranged in an L shape, one couch against the west wall of the living room and the other couch against the north wall of the living room. OGOLLA advised that RAUSHELLE fell asleep on the western couch. At approximately 2300 hours, OGOLLA stated she and GAS left the residence to go to Hooligan's at 100 North Third. OGOLLA stated that Hooligan's was very crowded so she returned to her residence on Hyde approximately 30 minutes later at 2330 hours and went to sleep in her bedroom. According to OGOLLA, RAUSHELLE was still asleep on the west couch in the living room.

OGOLLA advised that she was asleep until approximately 0400 hours when she awoke to Officer SHUTES and Officer ELDRIDGE knocking on the door. OGOLLA advised that was the first time she noticed that RAUSHELLE was gone. I asked OGOLLA to show me the texts that had been transferred between RAUSHELLE and AADI. She looked for the texts but advised they were no longer on her phone and it appeared that RAUSHELLE had deleted them. She did, however, state that she had checked her call log and it appeared that at 0312 hours on 01/20/13, AADI had telephoned RAUSHELLE on OGOLLA'S phone. At approximately 0323 hours RAUSHELLE had called AADI and at 0331 hours AADI had again called RAUSHELLE.

I then spoke briefly with AMAN GAS. He advised he had been in his house at 425 Hyde at approximately 1900 hours when RAUSHELLE came over. He stated that he, ANDREA OGOLLA, MONIQUE HAMBLIN, and RAUSHELLE had all been drinking and between the four of them they finished a bottle of vodka. GAS also stated that while they were drinking he was sitting on the northernmost couch and RAUSHELLE kept coming over and sitting by him. GAS advised that while RAUSHELLE was sitting by him she kept sitting closer and closer and he was under the impression RAUSHELLE

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wanted to "be with" him. GAS advised that approximately an hour later RAUSHELLE left with her boyfriend, AADI, but came back at approximately 2300 hours. According to GAS, RAUSHELLE wanted to go to the bar with him but GAS did not want to take her because she was intoxicated and he did not want to babysit her. GAS stated he left with OGOLLA and went to Hooligan's Bar. GAS stated he did not return until approximately 0300 hours after the bar had closed and RAUSHELLE was asleep on the western couch when he arrived home. GAS advised he undressed and fell asleep on the northern couch and was asleep until he was awakened by Officer SHUTES and Officer ELDRIDGE knocking on the door. That was the first time he noticed that RAUSHELLE was no longer asleep on the west couch.

I asked GAS if he would be willing to go to the Pocatello Police Station to provide a detailed statement to officers and he agreed. He was transported to the Pocatello Police Station by Officer ELDRIDGE. No further action was taken on my part.

End of report

SUPPLEMENTAL NARRATIVE:

OFFICER: LAMBSON #5261 DICTATED: 01/20/13 @ 1028 HRS
INVESTIGATIVE TIME: 5.5 HRS
LAW INCIDENT #: 13-P01084
STENO INITIALS: PF
DATE & TIME TRANSCRIBED: 01/20/13 @ 1125 HRS

1. DOCUMENTS OF EVIDENCE TO BE FILED IN RECORDS:
(STATEMENTS, RIGHTS FORMS, LATENTS, PHOTOS, ETC.)

RECORDINGS: Digital recordings uploaded into the Files section of Spillman under this LI as follows:

-130120001 is of the duration of the subject's cigarette break

-130120002 is of the duration of the collection of DNA evidence at Portneuf Medical Center

2. NARRATIVE:

On 01/20/13 around 0645 hours, I responded to 425 Hyde Avenue to assist Officer SHUTES with a possible sexual assault. Upon arrival a male subject approached me and told me his daughter was waiting in the car next to the street and that she had been assaulted by a subject inside the residence of 425 Hyde Avenue. He stated he was unsure how many occupants were still inside the residence. Officer SHUTES spoke with the subject and I secured the perimeter with other officers until contact could be made with the subjects inside. I returned to the station any waited as Detective MARSHALL interviewed the subject. At one point the subject wished for a cigarette break. I took the subject out to the back of the department and recorded the duration of our break, approximately five minutes. For reference refer to MP3 recording 130120001.

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After further interviewing from Detective MARSHALL I transported the subject to the Portneuf Medical Center where DNA evidence was collected by hospital staff. For reference to that duration at the hospital refer to digital recording 130120002. I transported the subject back to the Pocatello Police Station for further questioning by Detective MARSHALL. Detective MARSHALL then placed the subject under arrest and I transported the subject to Bannock County Jail where he was incarcerated for Rape, Idaho Code 18-6101.

End of report

SUPPLEMENTAL NARRATIVE:

OFFICER: MARSHALL #5203 DICTATED: 01/20/13 @ 1300 HRS
INVESTIGATIVE TIME: 14 HRS
LAW INCIDENT #: 13-P01084
STENO INITIALS: PF
DATE & TIME TRANSCRIBED: 01/20/13 @ 1352 HRS

1. DOCUMENTS OF EVIDENCE TO BE FILED IN RECORDS:
(STATEMENTS, RIGHTS FORMS, LATENTS, PHOTOS, ETC.)

One Adult Rights Form signed by AMAN GAS
One Consent to Search form signed by AMAN GAS
Portneuf Medical Center Discharge Instructions for AMAN GAS
One notebook paper with the diagram of the residence that was drawn by AMAN GAS
Authorization for Release of Medical Information signed by AMAN GAS

2. NARRATIVE:

On 01/20/13 I was contacted by Pocatello Dispatch at approximately 0415 hours requesting I respond to the Pocatello Police Department to assist in a rape investigation. Upon my arrival to the Pocatello Police Department Sergeant BUCK requested that I interview the suspect in this case identified as AMAN GAS. The victim had been taken to the Portneuf Medical Center Emergency Room where Corporal BROWN was currently speaking with her. Gas was placed into an Interview Room in the Detective Division by Patrol at which point I made contact with GAS in the Interview Room. I informed GAS he was free to leave at any point and that he was not under arrest or being detained in any way. I also told him that if he did not wish to answer any of my questions or speak to me any further to just let me know.

I then began by asking GAS for his personal information. He provided this to me. He also indicated that he is originally from Somalia and he has been in the United States for approximately 13 years and is here on asylum. I then began asking GAS to go through his day yesterday. He stated he woke up at approximately nine or ten am (0900 or 1000 hours) and throughout the day he had been watching TV movies. He also stated that the subjects who were inside the residence were ANDREA OGOLLA as well as her mom that he indicted was MOKIE, ADRIAN SMART who also lives at the residence as well as him. He stated that at approximately 1700 hours RAUSHELLE came to the residence. He believed they were watching the This Is 40 movie or something like that. He stated he has met

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GOODIN-GUZMAN a few times in the past and she is OGOLLA'S friend. RAUSHELLE is identified as RAUSHELLE GOODIN-GUZMAN who is the victim in this incident.

GAS stated that a short time after arriving GOODIN-GUZMAN'S friend AADI who is identified as ABHISHEK DWIVDI picked her up sometime during the movie and she was gone for a couple of hours. GAS stated that since about 1700 hours they began drinking alcoholic beverages such as Blue Skyy vodka and they had consumed almost a whole bottle of Blue Skyy among everybody who had been at the residence. He stated that prior to GOODIN-GUZMAN'S leaving with DWIVDI she also drank two bottles of Corona beer. He stated he then watched Men in Black 3 and then a second movie he could not remember the name of. He described it as being Django and that was the movie they were watching when GOODIN-GUZMAN came back to the residence. He also stated that GOODIN-GUZMAN came back with a Bud Light in her hand and he watched her consume approximately six beers in less than an hour. He stated that after GOODIN-GUZMAN came back from being with DWIVDI she appeared to be more intoxicated than when she left and while they were watching movies she came over and sat down by him and at one point lay down on the couch by him and placed her head on his thigh while they watched a movie. He stated that at no point did she say anything to him but it felt like she was coming on to him.

GAS then said that around 2300 hours OGOLLA and he decided to go to Hooligan's Bar. He stated OGOLLA was talking about having GOODIN-GUZMAN go with them but he did not want her to go because he did not want to babysit her due to her level of intoxication. He stated he then left the residence with OGOLLA and was with OGOLLA at Hooligan's for a little while. When she left with some other friends GAS was able to get a ride home at about 0300 hours on 01/20/13. He stated he walked into the house through the kitchen door, walked into the living room, and noticed that GOODIN-GUZMAN was asleep on the couch near the entrance into the kitchen. He then went to the other end of the couch and lay down. He described this couch as being an L-shaped couch. I then requested he draw a picture of how the room was set up. A picture of this was placed into Records. I went through and labeled the drawing. GAS described how his head was compared to where GOODIN-GUZMAN was. I asked him how GOODIN-GUZMAN was positioned. He stated he did not know and he did not know if she was covered with any type of blanket. He also could not tell me if she was lying on her back or if she was lying on one of her sides. He stated he just looked over and noticed she was there and then lay down himself. He stated he had consumed a large amount of alcoholic beverages throughout the evening and he went to sleep fairly quickly. He stated he put a blue blanket on top of him and this was the blue blanket he normally uses to sleep with. He also stated that where he lay down is where he normally sleeps, indicating he does not have a bedroom at this residence.

I asked GAS if he touched GOODIN-GUZMAN in any way and he indicated that he did not. I then informed GAS that GOODIN-GUZMAN had been injured at some point during the evening and she was indicating he was the one who injured her. He asked how and I advised him the injury had occurred while he was attempting to have sex with her. GAS denied the allegation he had attempted to have sex with her, stating she was not his type and he did not want to be with her in any way. He also indicated that when he got home he took off his shoes and his shirt, lay down on the couch, and could not remember anything else until officers knocked on the door. He was adamant about this fact and would not provide any further details about what happened after he lay down on the couch to go to sleep.

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At this point GAS then told me he did not wish to be at the Pocatello Police Department any further. I told him I would be right back with him and I left the room where I made contact with Corporal BROWN who was at Portneuf Medical Center with the victim. Corporal BROWN provided me with the information he had obtained from the victim, GOODIN-GUZMAN, and he also advised me that the SANE Nurse was currently inside the room with GOODIN-GUZMAN completing a sexual assault exam. Based on the information provided to me by Corporal BROWN I decided I would detain GAS at which point I then walked back into the Interview Room and advised GAS he was being detained. I then pulled out the Adult Rights Form. I read the Adult Rights Form to GAS asking him if he had any questions. He indicated he did not. I asked him if he was willing to speak to me and speak to me without a lawyer present. GAS had several questions that I was able to answer. I then allowed GAS to have a moment to think about whether he wanted a lawyer present or if he wished to speak with me without a lawyer.

During this time I made contact with the Bannock County Prosecutor IAN SERVICE to request his assistance in completing a detention order for possible evidence that may still be located on GAS. I then went back into the Interview Room and asked GAS if he wished to speak to me without a lawyer present. GAS indicated he did wish to speak to me and that he wished to cooperate with me. I asked him if he would be willing to go through a penile swab for DNA evidence, advising him that by doing so it could rule out his involvement in this incident. He agreed to the swabbing at which point I made contact with Corporal BROWN who was still at Portneuf Medical Center and requested he make arrangements for a SANE Nurse to complete some evidence collection from GAS. Corporal BROWN was able to make arrangements at which point GAS was transported by Officer LAMBSON to the Emergency Room where GAS was placed into Room #10. Officer LAMBSON stayed with GAS the whole time. A SANE Nurse completed the exam. Based on the information I had obtained from Corporal BROWN that the suspect had placed his fingers inside of GOODIN-GUZMAN'S mouth, I requested that fingernail scrapings be taken as well as a swab of his penis area. Prior to any of this occurring, I had GAS sign a Consent to Search form. I explained the form to him prior to his signing it. He then signed the form giving us permission to complete the necessary evidence collection that we needed. Prior to the SANE Nurse going into the room with GAS I informed her that he was here voluntarily and if at any point he revoked his permission that she needed to stop and to let me know. At no point did this ever occur. The SANE Nurse completed her exam and provided me with the evidence requested in a sex assault kit which was placed into the evidence fridge at the Pocatello Police Department.

While at the hospital I made contact with the SANE Nurse who completed the sexual assault exam on GOODIN-GUZMAN. She informed me that GOODIN-GUZMAN had two small tears to her anus and another injury that started on the outside of the anus area and ended on the inside. She also indicated that while doing the exam she located a pubic hair that did not belong to GOODIN-GUZMAN in the area of her anus. This hair was collected by the SANE Nurse. The sexual assault kit as well as all of GOODIN-GUZMAN'S clothing were turned over to me from the SANE Nurse. I then transported them to the Pocatello Police Department where they were placed into evidence.

It was right at this same time that GAS' exam was completed. Officer LAMBSON then transported GAS back to the Pocatello Police Department at my request. Prior to the transport I asked GAS if I could ask him a few more questions. He indicated that would be fine. Once he arrived at the Pocatello Police Department he was placed back into the Interview Room. Upon my contact with GAS

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again I reminded him of his Miranda rights and he agreed to still speak to me in reference to this incident. I started confronting GAS about his story about not touching GOODIN-GUZMAN. GAS, throughout the whole interview, did not change his story, indicating he came home, went straight into the living room, took his shirt and shoes off, and lay down on the couch. Although I did speak to him about earlier in the evening when GOODIN-GUZMAN was coming on to him, he indicated she sat next to him very close and lay down, putting her head onto his lap. She did this a couple of times and she kept holding his hand. He also stated that she would hug him and hugged him approximately five times throughout the evening which was unusual. He stated the last time he had seen her prior to this was approximately six months ago. He also stated that at one point time she reached up and grabbed his hand and was holding his hand with her hand while she was lying on the couch with her head on his thigh and placed his hand up, while holding it, in the area of her chest. He stated at no point did he ever try to grab or grope while she was doing this and that he felt very uncomfortable and would look over at OGOLLA trying to get OGOLLA'S attention to show her what was going on. He then stated he had an agreement with OGOLLA that they would not date each other's friends due to the complications it could bring.

GAS then indicated he had overheard GOODIN-GUZMAN speaking to OGOLLA about having sex with DWIVDI earlier in the evening and that is why she left with DWIVDI. GAS stated he knew DWIVDI was a married man and believed that OGOLLA was sleeping with another married person as well. I again asked GAS if he tried to have sex with GOODIN-GUZMAN. Again he indicated that he did not and was adamant he just went to sleep and did not know what happened from the time he went to sleep until the officers knocked on his door.

Based on the information I had from the SANE Nurse from Corporal BROWN it was then determined that GAS would be charged with Rape. He was taken into custody for Rape and transported to the Bannock County Jail where he was incarcerated.

At this point this investigation continues.

End of report

SUPPLEMENTAL NARRATIVE:

OFFICER: Bates #5167 Sun Jan 20 16:16:30 MST 2013
Time Spent: 30 min.

On 01-20-2013 I presented the paperwork for this case to the Honorable Judge Steven Thomson. After reviewing the case, Judge Thomson issued a \$30,000.00 bond on GAS, charging him with the crime of Rape. I faxed the completed paperwork to the Bannock County Jail and called to confirm they had received it.

No further action taken.

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End Supplement.
JB5167

ARREST:

AFFIDAVIT OF PROBABLE CAUSE
ARREST REPORT

Date: 01-20-13

Time: 0957

Officer: T. MARSHALL #5203

Arrestees Name: GAS, AMAN F

Charge: RAPE - 18-6101

Citation #:

Bond: NO BOND

LI#: 13-P01084

SYNOPSIS:

On 01-20-13 at approximately 0343 hours, RICHARD SAMMONS reported that his daughter had been raped at 425 Hyde Ave earlier this morning. Cpl. BROWN made contact with the victim, RAUSHELLE GOODIN-GUZMAN outside the residence while she was sitting in her friend's vehicle. Cpl. BROWN spoke to her briefly and she agreed to go to the hospital for a sexual assault exam. GOODIN-GUZMAN was transported by her friend, ABHISHEK DWIVEDI, to the Portneuf Medical Center (PMC) Emergency Room. Cpl. BROWN then interviewed GOODIN-GUZMAN while at PMC and she said the following: She had arrived at her friend ANDREA OGOLLA's house, located at 425 Hyde - Basement apartment, at approximately 2000 hours on 01-19-13. There were several people at the apartment and they were watching movies. GOODIN-GUZMAN admitted that she had been consuming alcoholic beverages throughout the night, and at some point, she fell asleep on the couch in the living room. Sometime later, she had partially woke up but thought that she was still dreaming. She was laying on her right side so that she was facing the back of the couch. She saw a black male standing behind her, near her mid-section. The male put his finger into her mouth and then placed his hand down the back of her pants and placed his finger near her "butt." The male tried to pull her pants down. He was able to get her pants pulled down just below her "butt cheeks." During this time, GOODIN-GUZMAN saw the male "spit" on her "butt" area. GOODIN-GUZMAN rolled over slightly so that she could look behind her and noticed that the male subject was AMAN GAS. GAS is her friend OGOLLA's roommate and has met him on several occasions. GOODIN-GUZMAN then rolled back onto her side, still thinking that she was dreaming. At this point, GAS put his penis inside her anus and "pumped" approximately three times. The pain that this caused to GOODIN-GUZMAN caused her to wake up fully and realize that she was not dreaming. She told GAS "NO, I have to go to the bathroom." She then went to the bathroom and locked the door. While in the bathroom, GOODIN-GUZMAN urinated and when she looked into the toilet bowl, she noticed some blood. GOODIN-GUZMAN stayed in the bathroom until OGOLLA knocked on the door and needed to use the bathroom. GOODIN-GUZMAN exited the bathroom and went to OGOLLA's bedroom and closed the door. She does not have a cell phone of her own and so she used OGOLLA's phone that was located in the bedroom. GOODIN-GUZMAN tried to facebook message her father asking for help. She also tried to call DWIVEDI. She was able to get a hold of DWIVEDI at approximately 0341 hours on 01-20-13. GOODIN-GUZMAN told DWIVEDI that she had been raped and that she needed help. DWIVEDI agreed to come and pick her up. She was also able to get a hold of her father, SAMMONS, by Facebook messaging. He told her that he was on his way to get her as well. This occurred at approximately 0321 hours on 01-20-13. GOODIN-GUZMAN grabbed her shoes and coat and left the apartment. She waited near the intersection of Hyde and Pine until SAMMONS and DWIVEDI arrived. For further information on this see the recorded interview completed by Cpl. BROWN.

I made contact with the SANE Nurse that completed the Sexual Assault Exam on GOODIN-GUZMAN. She informed me that there were two tears in the area of GOODIN-GUZMAN's anus. There was also an injury that started on the outside of

the anus area and ends inside.

Patrol officers were able to make contact with AMAN GAS at 425 Hyde Ave. He agreed to go to the Pocatello Police Department voluntarily to speak to officers about this incident. He was given a voluntary transport. Upon my contact with GAS inside the interview room, I informed him that he was not under arrest and free to leave at any point. I also informed him that if he no longer wished to speak to the police to tell me. GAS agreed to speak to me about this incident. He said that he had been watching movies throughout the evening. He said that GOODIN-GUZMAN arrived at the apartment at approximately 1700 hours on 01-19-13. She was there for a while and then was picked up by, DWIVEDI. A few hours later GOODIN-GUZMAN returned to the residence. GAS could not remember what time she got back. He also said that everyone at the apartment had been drinking alcoholic beverages throughout the night and that included GOODIN-GUZMAN. Gas told me that while watching a movie, GOODIN-GUZMAN sat down next to him on the couch. She then laid down on the couch, putting her head on his thigh. She also reached up and grabbed his hand and held it near her chest. GAS said that later, he left to go to Hooligans bar with OGOLLA. He said that GOODIN-GUZMAN did not go with them. He got a ride home from a friend at approximately 0300 hours on 01-20-13. He walked into the apartment through the kitchen door and into the living room. GAS noticed that GOODIN-GUZMAN was "passed out" on the couch. The couch is described as being an "L" shaped couch. GOODIN-GUZMAN was lying on the side near the kitchen door. GAS could not remember what direction GOODIN-GUZMAN head was pointed or how she was laying on the couch. He said that he took off his shoes and his shirt and laid down on the other end of the couch, covered himself with a blanket and then fell asleep. He was adamant that he could not remember anything from this point, until the police knocked on the door. GAS was informed that GOODIN-GUZMAN was at the hospital with injuries that she claimed were from him. And that these injuries were from a possible rape. GAS then told me that he wanted to leave. I stepped out of the interview room where I made contact with Cpl. BROWN who was still at PMC with GOODIN-GUZMAN. Cpl. BROWN told me that the SANE Nurse was currently with GOODIN-GUZMAN for the Sexual Assault Exam. Based on the corroborating information that Cpl. BROWN advised me, I then decided to detain GAS. I then informed GAS that based on all the information I had at this time, he was being detained. I also read him the Adult Rights Form and asked if he wished to talk to me without a lawyer present. He agreed to sign the Adults Rights Form and to talk to me without a lawyer present. He was asked to submit to a penis swab and scrapings from under his fingernails for DNA evidence. He agreed to this testing. He was transported to PMC where a SANE Nurse completed this evidence collection. I then brought Gas back to the Pocatello P.D. where I spoke to him some more about this incident. GAS was adamant that he was not involved in the rape. GAS was then advised that he was under arrest for Rape and transported to the Bannock County Jail where he was incarcerated. For full details on this interview with GAS, see the DVD that was placed into evidence. tm

State of Idaho)
)
County of Bannock) ss

T. MARSHALL #5203 being first duly sworn, deposes and says that I am a law enforcement officer with POCATELLO POLICE DEPARTMENT. I have conducted an investigation regarding AMAN F GAS. Based on that investigation, I request a Sixth District Judge to make a determination of probable cause to arrest, hold or set bond on the above named defendant for the public offense of RAPE, a violation of I.C. 18-6101. The basis for this request is the information set forth in a police report which is designated as Exhibit "A" attached or within

hereto. I further depose and say that I have read Exhibit "A" and all the contents are true to the best of my knowledge, and that I personally know the author of that report to be a law enforcement officer whom I believe to be credible and reliable.

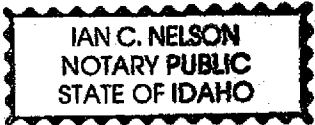
Dated this 20th day of January, 2013

Officer signature [Signature] #5203 Pocatello Police Dept.

State of Idaho)
) ss
County of Bannock)

T. MARSHALL #5203, known to me to be the person whose name is subscribed to this Affidavit of Probable Cause, acknowledged to me that s/he has read and executed the document/s and the contents are true to the best of her/his knowledge.

Subscribed and sworn before me this 20th day of January, 2013



[Signature]
Notary Public

Commission expires on 11/19/14

Detailed Report to follow.

ORIGINAL

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

MAGISTRATE DIVISION

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2013 JAN 22 AM 11:18

BY [Signature]
DEPUTY CLERK

STATE OF IDAHO)

Plaintiff)

vs.)

AMAN FARAH GAS)

XXX-XX-3799)

05/03/1980)

Defendant.)

Case No. _____

PROBABLE CAUSE MINUTE
ENTRY AND ORDER

CP-113-864-12

☒ An Affidavit of Probable Cause having been presented to the undersigned magistrate on this date charging the defendant with the crime(s) of:

RAPE, Idaho Code § 18-6101(4)

☒ The defendant, having been incarcerated without a warrant, the court finds Probable Cause to believe the defendant committed the crime(s) set forth above.

☐ The defendant is released O.R.

☒ The defendant shall remain incarcerated in lieu of bond(s) in the amount of \$ 30,000-

☐ The defendant shall remain incarcerated in lieu of bond in the amount set by the bond schedule.

☐ The defendant shall remain incarcerated and bond shall be determined at arraignment.

☐ This affidavit is made in support of an application for an arrest warrant.

☐ An arrest warrant was issued setting bond(s) in the amount of _____

☐ The court does not find Probable Cause to believe the defendant committed the crime(s) set forth above. The defendant shall be released within 48 hours of arrest.

IT IS SO ORDERED,

Dated this 22nd day of January, 2013. and signed at 10:55 o'clock A. M.

[Signature]

SIXTH DISTRICT MAGISTRATE JUDGE

Probable Cause Minute Entry and Order
Revised 04-13-06

FILED
BANNOCK COUNTY
CLERK OF THE COURT

ORIGINAL

Sixth Judicial District Court, State of Idaho
In and For the County of Bannock
Magistrate Division
2013 JAN 22 PM 12:03
BY DEPUTY CLERK

STATE OF IDAHO,
Plaintiff.

vs.

Aman F Gas
425 Hyde Ave
Pocatello, ID 83201

Defendant

DOB:
DL or SSN:

ARRAIGNMENT ORDER
Case No: CR-2013-0000864-FE
ORDER TO ATTEND PRELIMINARY HEARING

NOTICE IS GIVEN that the above-entitled case is set for:

Preliminary Hearing Tuesday, February 05, 2013 09:30 AM
Judge: David Kress
Courtroom: Room 119, Traffic Court-first Floor

The defendant in this case appeared for initial appearance on this date and was informed of the charge(s) filed against him/her and was advised of his/her constitutional rights.

☒ Upon request and application for an attorney, the Public Defender's office was appointed to represent the defendant. Reimbursement for the services of the Public Defender, if any, will be determined at the conclusion of the case. The defendant is **ordered**, as a condition of release, to contact the Public Defender's office at (208) 236-7040 within 5 days of this order and to provide that office with a valid mailing address and telephone number. If the defendant's address or telephone number changes he/she shall immediately notify the court and the public defender's office in writing. The defendant is also **ordered**, as a condition of release, to remain in contact with the Public Defender's office at all times until the end of this case. Failure to maintain contact with the public defender may result in a warrant for the defendant's arrest.

Other conditions of release: Whether released on your own recognizance, or to Court Services Pretrial Release, or after posting bond the Court ORDERS you to comply with the following conditions of release:

- You shall appear for all court ordered hearings unless excused by the court in writing.
- You shall not appear for court with any amount of alcohol or illegal drugs in your system.
- You shall not violate any Domestic Violence or Criminal No Contact order.

Failure to comply with these conditions of may result in the immediate revocation of your pretrial release and/or a warrant for your arrest.

Bond was set in the amount of: \$ 30,000

ARRAIGNMENT PRETRIAL ORDER
ORDER TO ATTEND PRELIMINARY HEARING

Page 1

56 of 1217

- ☐ Bond previously posted is continued.
- ☐ The defendant was released on their own recognizance.
- ☐ Upon release from jail the defendant is to be supervised by Court Services.
- ☒ No Contact Order issued.

DATED: Tuesday, January 22, 2013



MAGISTRATE JUDGE

I certify that copies of this Notice were served as follows on this date 1-22-13

By: 

Deputy Clerk

Private Counsel: Randall D Schulthies Bannock County Public Defender

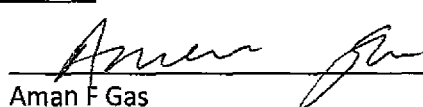
Mailed _____ Hand Delivered

Prosecutor: JaNiece Price Bannock County Prosecutors Office

Mailed _____ Hand Delivered

Officer: TRACY MARSHALL Pocatello City Police

Defendant: I acknowledge I received this Arraignment Pretrial Order and Order to Attend pretrial on this Tuesday, January 22, 2013.


Aman F Gas 208/240 5826
Phone #

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE

OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

Defendant.

2013 JAN 22 AM 10:00

BY

DEPUTY CLERK

Charge/Case No

11-13-864

ORDER TO MEET WITH
PUBLIC DEFENDER

FELONY CHARGE(S)

YOU ARE HEREBY ORDERED to meet with the Public Defender:

— Tuesday, on —, 20 — at — p.m.

— Thursday, on —, 20 — at — p.m.

— Tuesday, on January 29, 2013 at 2:30 p.m.,

IF YOU BOND OUT OF JAIL.

The Public Defender's office is located in the brick building found on the northeast corner of the parking lot of the Courthouse facing Clark Street.

When you appear for your appointment, you are ordered to bring the following:

- * The date and time of your preliminary hearing;
- * The name of the judge who will be hearing your preliminary hearing;
- * Any information regarding the specific felony charge that has been filed against you;
- * The names and addresses of witnesses who can help you in your defense.

If you do not appear for this scheduled appointment, the Court will revoke your O.R. release or will revoke your bond and will issue a warrant for your arrest.

The secretary in the Public Defender's office is ordered to notify the Court in writing if you fail to appear for this scheduled appointment.

IT IS SO ORDERED this 22 day of January, 2013

Judge

RECEIPT

I HEREBY ACKNOWLEDGE that I have read and received this Order to Appear this

22 day of January, 2013.

Defendant

ORDER TO MEET WITH PUBLIC DEFENDER

PLEASE PRINT

CASE NO. _____

APPLICATION FOR PUBLIC DEFENDER

Dman-GAP
Defendant's Name 425 1/2 yd Social Security Number Same Birth Date (M/D/Y) 240-8826
Mailing Address Pa ID 83201 Physical Address Unknown Home Phone _____
City State Zip Work Phone _____ Message/Cell Phone _____
Marital Status Single ☒ Married ☐ Separated ☐
No. Dependant Children 3 Child Support Payments Monthly \$ 700⁰⁰
Child Support Received Monthly \$ _____

EMPLOYMENT

Simplest
Name of Employer Sec ID Phone 83201 Name of Spouse's Employer _____ phone _____
City 4/2012 State _____ Zip 32 City _____ State _____ Zip _____
Start Date _____ End Date _____ Hrs Per Week _____ Start Date _____ End Date _____ Hrs Per Week _____
\$ _____ per month at \$ 10⁰⁰ per hour \$ _____ per month at \$ _____ per hour

FINANCIAL

Your Home--Rent ☒ Own ☐ Other ☐ Explain if Other _____
Equity in Home/Properties \$ 0 Equity in Vehicles \$ 0
Name of financial Institution(s) 0
Balance in Checking \$ 0 Balance in Savings \$ 0
Other Assets 0 \$ 0

OTHER INCOMES:

A.F.D.C. \$ 300⁰⁰
Social Security \$ _____
S.S.I./S.S.D. \$ _____
Unemployment \$ _____
Veterans Benefits \$ _____
Retirement/Pension \$ _____
Student Loans \$ _____
Inheritance per Capita \$ _____
Lease Money \$ _____
Other \$ _____

MONTHLY EXPENSES:

Rent/Mortgage \$ 425
Vehicle Payments \$ 0
Food/Utilities \$ 0
Auto Insurance \$ 0
Student Loans \$ 0
Credit Cards \$ 0
Medical \$ 0
Other \$ 0

FILED
CLERK OF THE COURT
2013 JAN 22 PM 12:23
BY DEPUTY CLERK

**BANNOCK COUNTY MAGISTRATE/DISTRICT COURT
COURT SERVICES PROGRAM EXPLANATION, AGREEMENT & RELEASE**

The Court Services Program is intended to provide an alternative to pre-trial detention, by releasing defendants in certain cases according to Constitutional principles, Judicial eligibility requirements, and community protection. This release should be either on their own recognizance or to the Court Services Program for supervision, until final disposition is entered in the case.

A Court Services Officer will interview all defendants as soon as possible after they are booked into the jail. They can choose to post bond (if one is set) or to wait in jail for their arraignment, which would still occur within the time limits prescribed by law.

I voluntarily authorize the Court Services Program to release the information contained within (criminal records, personal backgrounds, etc) to the courts and attorneys assigned by case. I also authorize the Court Services Program to contact the people named in the attached Interview Record and to make any and all inquiries and investigation for obtaining information useful to the court in establishing my eligibility for being released on my own recognizance, aid in proper supervision and to establish my eligibility for various Diversionary programs.

Further I authorize the Court Services Program to release information to (Treatment Facility) _____ and for that facility to release information to the Court Services Program.

Aman Gas

Defendant's Name (Print)

Aman Gas

Defendant's Signature

☐ - Chose not to participate in interview.

☒ - Not given opportunity to be interviewed because ICE Hold

☐ - Declined to fill out Public Defender form.

☐ - Will hire private counsel.

☐ - Public Defender form completed and attached.

GA

Court Services

Date: 1/22/13

DEFENDANT S NAME Man F. Das

LEGAL STATUS (KNOWN):

Prior Felonies:

Prior Misdemeanors: YES NO 1-5 6-10 11-more
Viol related 7 long child - 5-17-11, 9-7-08, Viol DVD - 8-27-03 (disin)
Prior Same as Present: Viol DVD - 3-1-08, 8-7-03, (disin) Dom Batt - 2-13-08, 7-4-03, (Red dist P) (Red Batt) 8-5-03

Other Pending Charges:

FTA s:

FTOC s: 2-14-08,

Prob. Viol s: 8-30-12, 9-21-09, 4-3-09, (cats)

FTP s:

Bond Jumping Charges/Ptrl. Rel. Revocations:

Prior Violent Related Offences (for Drug Court):

RELEASE RECOMMENDED: YES [] NO [] FELONY [X]

INFORMATION VERIFIED: YES [] NO [] PARTIALLY []

COMMENTS: Did not interview for an OR Release -
ICE Hold

Extensive Prior Record. Currently on misel
Probation. See Prior Violent Related charges.

DATE: 1-22-13

COURT SERVICES: AS

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

NAME: AMMAN GAS (M) F INTERVIEW RECORD
Date 1/22/13 SS # [REDACTED] DOB [REDACTED]

Phone # 240-8826 Cell # Same Message # 240-5854 Work # —

Married ☒ Single ☐ Divorced ☐ Widowed ☐ Separated ☐ How Long —

PRESENT OFFENSE(S) Rape

Current Address 425 Hyde, POC 83201 County Bannock How long 2 mo / 9 yrs

Own buy ☒ rent \$ 420⁰⁰ Mailing Address Same

Who lives with you Adrienne Smart Relationship Friend Their phone # 240-8035

Prior State & County OAKLAND CA / Kenya / Somalia How long 4 yrs / 12 yrs / 8 yrs

Contact People for verification:

Name Andrae Ogile Relationship Friend Phone 240-5854

Name — Relationship — Phone —

Are you currently in school Yes / ☒ No Where — Length — Level —

Are you employed ☒ Yes / No Date of hire 10 mo - Date of termination — Your position Janitor

Employer & Address Simplot Supervisor Dave Phone ?

Are you currently on Probation/Parole ☒ Yes / No Where Bannock Co PO Ryan

Ever participated in: Drug Crt ☐ DUI Crt ☐ Mental Health Crt ☐ Family Treatment Crt ☐ Veterans Crt ☐

Date — Where — Length — Successful / Unsuccessful —

Have you ever been diagnosed with any of the below listed mental illness disorders: NO
Schizophrenia schizoaffective bipolar severe mood psychotic delusional disorders

Have you ever been a patient of an inpatient psychiatric hospital Yes / No Voluntarily / Involuntarily committed

Date — Length — Where —

List any medications you take or have been prescribed for a mental illness —

Are you currently suicidal Yes / ☒ No Ever attempt suicide Yes / ☒ No Did you seek medical attention Yes / ☒ No

Currently or ever served in the United States Armed Forces Yes / ☒ No Date — Discharge papers Yes / No

Do you currently or have you ever had an open case with Child Protective Services Yes / ☒ No Date 2011

☐ Felony Drug Crt ☐ DUI Crt ☐ Mental Health Crt ☐ Veterans Crt ☒ Family Treatment Crt

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO, Plaintiff

Citation #

CR2013-804 FE

vs.

Agency: ☐ Sheriff ☒ Pocatello ☐ Chubbuck
☐ ISP Other: _____

Aman Gas

Defendant

53-80 3799

DOB

SEN/DL #

425 Hyde POC

Address

NO CONTACT ORDER (NCO)
IDAHO CRIMINAL RULE 46.2

YOU HAVE BEEN CHARGED WITH VIOLATING THE FOLLOWING IDAHO CODE SECTION(S):

- ☐ 18-901 Assault ☐ 18-903 Battery ☐ 39-6312 Violation of Protection Order
☐ 18-918 Domestic Assault or Battery ☐ 18-7905 Stalking ☐ Other _____

against Raushelle Goodin Guzman

the Alleged Victim: DOE

ADDRESS 145 H. Hcrest #38, Am Falls, IDN 4301, PHONE 269-0498

(must have 2 identifiers for ILETS entry), the ALLEGED VICTIM:

and 3132 Neeley Loop, Am. Falls

THIS COURT, having personal and subject matter jurisdiction, **HEREBY ORDERS THAT YOU, THE DEFENDANT, ARE TO HAVE NO CONTACT DIRECTLY OR INDIRECTLY WITH THE ALLEGED VICTIM.** Do not knowingly follow, communicate in any way or by any means (including another person); nor harass or otherwise make, attempt to make, contact with the victim(s). Do not knowingly go, or remain, within 300 yards of the alleged victim's person, property, residence, workplace or school.

IF YOU RESIDE WITH THE ALLEGED VICTIM THEN YOU ARE HEREBY ORDERED OUT OF THE RESIDENCE you must contact an appropriate law enforcement agency for an officer to accompany you while you remove any necessary personal belongings, including any tools required for your work. The agency will schedule the removal of these items within 48 hours of contact, if at all possible. If disputed, the officer will make a preliminary determination as to what are necessary personal belongings; and in addition, may restrict or schedule the time spent on the premises.

VIOLATION OF THIS ORDER IS A SEPARATE CRIME UNDER Idaho Code 18-920 for which no bail may be set until you appear before a judge. It is subject to a penalty of up to **ONE-YEAR IN JAIL** and up to a **\$1,000 FINE**. **ONLY A JUDGE CAN MODIFY THIS ORDER.** A 3rd conviction for violation of a no contact order within five (5) years is a felony and is punishable by a fine not exceeding \$5,000 or imprisonment in the state prison not to exceed five years or both.

When more than one domestic violence protection order is in place, the most restrictive provision will control any conflicting terms of any other civil or criminal protection order. (ICR 46.2(c))

This order may subject you to Federal prosecution under 18 U.S. Code § 922 if you possess, receive, or transport a firearm.

A copy of this Order shall immediately be sent to the appropriate law enforcement agency of the originating citation or charge. **THE ORDER SHALL BE ENTERED INTO THE IDAHO LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM.**

TERMINATION: Unless otherwise modified, terminated or extended by the court, the NCO will remain in effect until 11:59 pm on the 22 day of JAN of 2014

Other special conditions: _____

IT IS SO ORDERED this 22 day of JAN, 2013.

Judge: [Signature]

RECEIPT BY DEFENDANT

I ACKNOWLEDGE that I have read/received this order. DEFENDANT signature

Aman Gas 1/22/13

PERSONAL SERVICE

I certify that I received this NCO and served it on the above named individual on

1-22-13 @ 4:00

Agency: CRS SRV

Officer: Toy Hoh

Time N/A
Badge number: N/A

Date entered into ILETS _____ 20 _____ by _____; Date removed _____, 20 _____

by _____ Return Yellow Copy to Court Services when removed from ILETS.

63 of 1217

WHITE/Courts

YELLOW/ILETS then Court Services

PINK/Court Services

GOLD/Defendant

04/17/09

ORDER OF COMMITMENT
THE SIXTH DISTRICT COURT, BANNOCK COUNTY, IDAHO

JAIL ID # _____
CASE # CL 2013-864-12
D.O.B. 5-3-80 SSN/DL# _____
This commitment was completed by (name of person) NP BY DEPUTY CLERK

OUT DATE
2013 JAN 23 AM 9:25

TO THE SHERIFF OF BANNOCK COUNTY:

Name of Defendant Aman F. Ras having this 27 day of Jan, 20 13
been: Arraigned Sentenced Other in the Magistrate Court on the charges of:

Chg 1. Charge Rape Cit. # _____ Amended to _____ is hereby
ordered to the Bannock County Jail for: Days _____; Fine _____; Bond 30,000;

Chg 2. Charge _____ Cit. # _____ Amended to _____ is hereby
ordered to the Bannock County Jail for: Days _____; Fine _____; Bond _____;

Chg 3. Charge _____ Cit. # _____ Amended to _____ is hereby
ordered to the Bannock County Jail for: Days _____; Fine _____; Bond _____;

Chg 4. Charge _____ Cit. # _____ Amended to _____ is hereby
ordered to the Bannock County Jail for: Days _____; Fine _____; Bond _____;

Jail sentence to begin _____, to be released on _____. The jail sentence to be completed no later
than (date) _____.

CREDIT FOR TIME SERVED: Yes _____ No _____ Days _____ credit to begin when Def. was incarcerated, OR
Number of days _____ credit to begin (date) _____.

CONSECUTIVE: Yes _____ No _____ Run sentence consecutively with _____
CONCURRENT: Yes _____ No _____ Run sentence concurrently with _____.

SCILD, if eligible: Yes _____ No _____; '2 x 1' Yes _____ No _____ SCILD to be completed by: _____. Special Instructions _____.

Sign up times, Tuesday, Thursday, Friday and Sunday 7:30 am-8:30 am; Wednesday - All Day. Do not wait until the last
day to sign up! Call 236-7162 for more information.

WORK RELEASE, if eligible: Yes _____ No _____; Special Instructions _____.

The Jail is ORDERED to monitor schedule, verify worksite and confirm transportation to and from
worksite.

COURT SERVICES: Yes _____ No _____ No; Special Instructions _____
OTHER SPECIAL INSTRUCTIONS: Yes _____ No _____.

Next Court Appearance: Pretrial _____ Prelim _____ Sentencing _____ Other _____ on the 5 day of
February, 20 13 at 9:30a in before Judge Kroff #119

IT IS HEREBY ORDERED that you receive him/her into your custody and detain him/her until such time you are
furnished an Order of Release or the defendant has satisfied the penalty as imposed by the Court.

DATED this 27 day of January, 20 13

Final Disposition _____ Date _____ Deputy _____ 64 of 1217

Kuss
RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT

13 JAN 31 PM 4:11

BY _____
DEPUTY

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

v.

AMAN F. GAS,

Defendant.

)
) CASE NO. CR-2013-00864-FE
)
)
)
)
)
)
)
)
)

DISCOVERY MOTION

COMES NOW the Defendant, Aman F. Gas, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the

Discovery Motion
Page - 1

following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

- a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

- b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

- c. Please provide a copy of the defendant's prior criminal record.

- d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.

- e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence a trial, or

Discovery Motion

Page - 2

obtained from the Defendant.

f. Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

g. Please furnish to the defendant a written list of the names and addresses, and all telephone or cell phone of whatsoever nature of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

i. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and data for those opinions, and the expert witness's qualifications pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence.

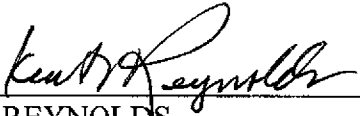
j. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

k. Any and all statements from conversations between the Defendant and any

third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 31 day of January, 2013.

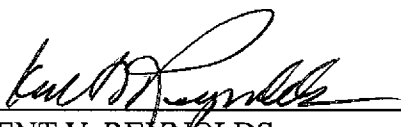

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 31 day of January, 2013, I served a true and correct copy of the **DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail Bannock
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

FILED

Time	Speaker	Note
10:09:15 AM	CRT/DEF AMAN GAS PRESENT W/C KENT REYNOLDS/STATE JANIECE PRICE	CLERK OF THE COURT 2013 FEB -5 AM 11:41
10:09:51 AM	AMD COMP FILED/CHANGING CODE	
10:13:46 AM	PA MOT TO EXCLUDE WITNESSES/GRANTED BY	
10:14:23 AM	STATES WITNESS RACHEL GUZMAN WAS CALLED SWORN AND TEST/DX BY PA	DEPUTY CLERK
10:16:50 AM	WIT IDENT DEF	
10:43:23 AM	X BY DA	
10:51:31 AM	STATES WITNESS ANN WILCOX WAS CALLED, SWORN AND TEST/DX BY PA	
11:02:51 AM	x by da	
11:07:30 AM	STATE REST	
11:07:42 AM	CRT/BOUND OVER TO DC/BOND AND NO CONTACT ORDER STILL IN PLACE	

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTOR
P.O. BOX P
POCATELLO, ID 83205-0050
(208) 236-7280

JANIECE PRICE, ISB #7161
Deputy Prosecuting Attorney

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2013 FEB -5 AM 11:41
BY  DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN FARAH GAS,
XXX-XX-3799
05/03/1980


Defendant.

CASE NO. CR-13-864-FE

AMENDED
COMPLAINT - CRIMINAL

Personally appeared before me this 5th day of February, 2013, JANIECE

PRICE in the County of Bannock, who, first being duly sworn, complains of AMAN
FARAH GAS and charges the defendant with the public offense of RAPE, Idaho Code
§18-6101(6), committed as follows, to-wit:

(a, b) 

That the said AMAN FARAH GAS, County of Bannock, State of Idaho, on
or about the 20th day of January, 2013, did penetrate with his penis the anal opening of a
female person, Raushelle M. Goodin Guzman, who at the time was unconscious of the
nature of the act and this was known to the defendant.

All of which is contrary to the form of the statute in said State made and provided and against the peace and dignity of the State of Idaho.

Said complainant prays that a Warrant be issued for the arrest of the said AMAN FARAH GAS that the defendant may be dealt with according to law.



JANIECE PRICE

SUBSCRIBED AND SWORN to before me this 5th day of February,

2013.



MAGISTRATE

SIXTH JUDICIAL DISTRICT COURT STATE OF IDAHO
IN AND FOR THE COUNTY OF BANNOCK
MAGISTRATE DIVISION

FILED
 BANNOCK COUNTY
 CLERK OF THE COURT
 2013 FEB 05 11:41
 BY _____
 DEPUTY CLERK

STATE OF IDAHO,

Plaintiff.

vs.

Aman F Gas
 425 Hyde Ave
 Pocatello, ID, 83201

Defendant.

DOB:

DL or SSN:

) Case No: CR-2013-0000864-FE

) **MINUTE ENTRY AND ORDER**
) **BINDING DEFENDANT OVER**
) **TO DISTRICT COURT**

The above-entitled matter was before the court on Tuesday, February 05, 2013 for preliminary hearing on the charge(s) of RAPE, I.C 18-6101(6). The Honorable David Kress presided. The State was represented by JaNiece Price. The defendant appeared in person and through counsel, Kent Reynolds.

Amend Complaint filed changing the code from 18-6101(6) to 18-6101(6)(a or b).

State made a Motion to exclude all witnesses from the courtroom. There being no objection from the Defense the Court GRANTED the Motion.

The state called the following witnesses: Raushelle Guzman and Ann Wilcox.

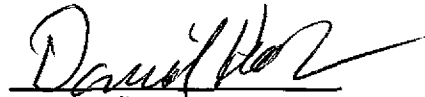
The court reviewed the evidence and testimony and concluded the public offense(s) listed above was/were committed in Bannock County, and found reasonable grounds to believe the defendant committed said offense(s).

IT IS THEREFORE ORDERED that the defendant be bound over to the district court and held to answer to the charge(s) listed above.

Bond status: The defendant's bond is \$30,000.00 with the No Contact Order still in effect.

The court ORDERED the defendant to stay in contact with his/her attorney and attend all future court proceedings.

IT IS SO ORDERED this Tuesday, February 05, 2013.


DAVID KRESS
MAGISTRATE JUDGE

I certify that on Tuesday, February 05, 2013 I served a true and correct copy of the foregoing **Minute Entry and Order Binding the Defendant Over to District Court** on the person(s) listed below by hand delivery or mail with correct postage.

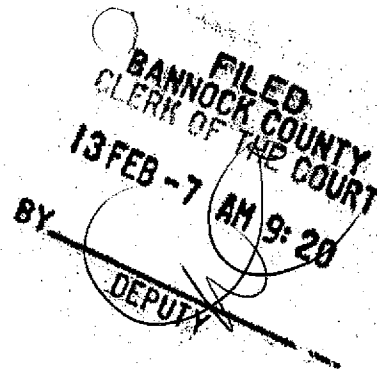
JaNiece Price Bannock County Prosecutors Office PO Box P Pocatello, ID 83205	Randall D Schulthies Bannock County Public Defender 141 N 6th Pocatello ID 83201
---	---

Dale Hatch
Clerk Of The District Court


By: _____
Deputy Clerk

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTOR
P.O. BOX P
POCATELLO, IDAHO 83205
Telephone: (208) 236-7280

JANIECE PRICE, ISB #7161
Deputy Prosecuting Attorney



IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN FARAH GAS,
XXX-XX-3799
05/03/1980

Defendant.


CASE NO. CR-13-864-FE

PROSECUTING ATTORNEY'S
INFORMATION

STEPHEN F. HERZOG, Prosecuting Attorney, in and for Bannock County,
State of Idaho, who, in the name and by the authority of said State prosecutes in its
behalf, in proper person comes into said District Court in the County of Bannock, State of
Idaho, on the 5 day of February, 2013, and gives the Court to understand and be
informed that AMAN FARAH GAS is accused by this information of the crime of RAPE,
Idaho Code §18-6101(6)(a) and/or (b); committed as follows, to-wit:

That the said AMAN FARAH GAS, County of Bannock, State of Idaho, on or about the 20th day of January, 2013, did penetrate with his penis the anal opening of a female person, Raushelle M. Goodin Guzman, who at the time was unconscious of the nature of the act and this was known to the defendant.

All of which is contrary to the form of the statute in such case in said State made and provided and against the peace and dignity of the State of Idaho.


STEPHEN F. HERZOG
Prosecuting Attorney
Bannock County, Idaho

STATE OF IDAHO)
) ss.
COUNTY OF BANNOCK)

I, DALE HATCH, Clerk of the District Court of the Sixth Judicial District, in and for the County of Bannock, State of Idaho, do hereby certify that the foregoing is a true and correct copy of the original information filed in my office on the ____ day of _____, _____.

Clerk

Deputy

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2013 FEB 12 PM 3:45
BY [Signature]
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register #CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN FARAH GAS,

Defendant.

MINUTE ENTRY & ORDER ON
ARRAIGNMENT AND ORDER
SETTING CRIMINAL JURY TRIAL

On February 11, 2013, the above-named Defendant appeared in Court with his counsel, Kent Reynolds, for arraignment. Ian Service, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheri Turner performed as Court Reporter for this proceeding.

When asked by the Court, the Defendant stated that his true name is as shown on the Information. A certified copy of the Prosecuting Attorney's Information was handed to the Defendant and the reading of the same was waived.

The Defendant was advised by the Court that he was allowed a reasonable time of not less than 24 hours before he could be required to enter a plea to the Information, but that he could waive that right and enter a plea at this time. The Defendant waived the time in which to enter a plea and entered a plea of **NOT GUILTY** to the charge of **RAPE, I.C. §18-6101(4)**, as described in the

Case No. CR-2013-00864-FE
MINUTE ENTRY & ORDER -1

Information.

IT IS HEREBY ORDERED that this case is hereby set for **JURY TRIAL** before the undersigned District Judge on **TUESDAY, MAY 21, 2013 AT THE HOUR OF 9 A.M.** on a "to follow" basis.

IT IS FURTHER ORDERED that this case is hereby set for **PRE-TRIAL CONFERENCE** on **MONDAY, MAY 6, 2013 AT THE HOUR OF 4 P.M.**

The Defendant is currently in custody. However, IT IS FURTHER ORDERED that the **BAIL** in this matter be and the same is hereby **CONTINUED**, with the Defendant being advised that the following conditions are attached to his said release, should the Defendant post bond, to wit:

- (1) Defendant shall keep in touch with his attorney and shall keep his attorney advised of his current telephone number and address;
- (2) Defendant is required to appear on time and prepared for all scheduled proceedings;
- (3) Defendant shall not violate any laws of the City, County, State or Federal government during the period of said release;
- (4) Defendant shall not leave the Sixth District during said release without prior knowledge and permission of his attorney

Defendant was further advised that his failure to comply with the conditions of said release could result in the issuance of a Bench Warrant for his arrest and the revocation of said bond.

CRIMINAL JURY TRIAL ORDER

(1) **TRIAL DATE.** A **JURY TRIAL** has been set above, in Courtroom 301, Bannock County Courthouse, Pocatello, Idaho. Several cases are set for trial on the same date. Therefore, notice is given that the trial of this matter may need to be adjusted as cases resolve. The parties will be

notified of any change in the trial date as soon as possible. Otherwise, a continuance of the trial date shall occur only upon a Stipulation of the parties, or upon a written Motion which clearly states the reasons for the requested continuance. A Stipulation, or a Motion to Continue the trial, agreed to or filed by the Defendant, requires an acknowledgment **signed by the Defendant** that the Motion to Continue has been discussed with and is agreed to by the Defendant.

(2) **PRE-TRIAL CONFERENCE.** A Pre-Trial Conference has been set above. The Defendant is Ordered to be present for the Pre-Trial Conference, unless incarcerated or otherwise ordered by the Court. Failure to appear, absent good cause, shall be grounds for issuance of a warrant of arrest and pre-trial incarceration.

(3) **DISCOVERY.** including all disclosures required by I.C.R. 16, must be served and completely responded to at least 21 days prior to trial.

(4) **MOTIONS.** Except for good cause shown, all Motions listed in I.C.R. 12(b) must be filed at least 45 days prior to trial and heard at least 30 days prior to trial. Motions in Limine shall be filed and heard by the Court at least 7 days prior to trial. Pursuant to Local Rule 3, all Motions, except Motions to Suppress, shall be accompanied by a brief. Motions to Suppress shall identify the issues the Defendant intends to raise so the State may be prepared to go forward. **One** (1) duplicate copy of all Motions, together with supporting memorandum and documents, shall be lodged (in writing, e-mail or fax), at the time of filing, in the Court's chambers in Bannock County, and shall be marked "Judge's Copy."

(5) **TRIAL BRIEFS.** Trial briefs are encouraged but not required. Submitted trial briefs should address substantive factual, legal and/or evidentiary issues, with appropriate citation to authority. If a trial brief is filed, it must be provided to the opposing party and a Judge's Copy

lodged in the Court's chambers in Bannock County, at least 7 days prior to trial.

(6) **PRE-TRIAL SUBMISSIONS.** At least 7 days prior to trial, each party shall file, and provide to the opposing party and lodge a Judge's Copy in the Court's chambers, the following:

(A) A list of all witnesses which each party intends to call to testify at trial, including anticipated rebuttal witnesses. Expert witnesses shall be identified as such. Each party must also identify any witness previously disclosed by the opposing party that will be objected to and the legal grounds therefore.

(B) A list of all exhibits which each party intends to introduce at trial. Each party must also identify any exhibit previously disclosed by the opposing party that will be objected to and the legal grounds therefore.

(C) A set of **pre-marked** exhibits. The State shall mark exhibits beginning with the number "1" and the Defendant shall mark exhibits beginning with the letter "A." A Judge's Copy of the pre-marked exhibits shall also be provided to the Court.

(D) A list of any objections to any other anticipated evidence so that the Court may be prepared to rule on such objections at trial.

(E) A listing of any stipulated admissions of fact, which will avoid unnecessary proof.

(F) A statement whether counsel requests more than 30 minutes for voir dire or opening statement and, if so, the reason(s) more time is needed.

(7) **JURY INSTRUCTIONS.** Proposed jury instructions and verdict forms shall be filed and exchanged by the parties at least 7 days prior to trial. The parties shall also submit both a clean version and a version with cited authority, by e-mail, to the Court's clerk in Word format, at least 7 days prior to trial. Except for good cause shown, proposed jury instructions should conform to the approved pattern Idaho Jury Instructions (ICJI). Certain "stock" instructions need not be submitted. These will typically include ICJI 101-108, 201-202, 204-208, and 232.

(8) **PLEA AGREEMENTS.** Except for good cause shown, the Court should be advised of any negotiated Plea Agreement no later than 4:00 P.M., the day prior to the trial, so the jury can be

notified. Should a Plea Agreement be entered into after the jury has been summoned, the Court may assess the cost of calling the jury to the party the Court deems responsible for those costs.

(9) **TRIAL PROCEDURES.** A total of four trial days have been reserved for this trial. If more trial days will be required, the parties are ORDERED to notify the Court no less than 30 days prior to trial. On the first day of trial, counsel shall report to the Court's chambers at 8:30 a.m. for a brief status conference. Unless otherwise ordered, trial days will begin at 9:00 a.m. and end about 5:00 p.m., with a one hour break for lunch. Jury selection shall be by a modified struck jury system.

(10) **HEARINGS OR CONFERENCES WITH THE COURT.** All meetings, conferences, and/or hearings with the Court shall be scheduled in advance with the Court's Clerk, Karla Holm, by calling 208-236-7250. No hearing shall be noticed without contacting the Clerk.


(11) **ALTERNATE JUDGES.** Notice is hereby given, pursuant to I.C.R. 25(a)(6), that an alternate judge may be assigned to preside over the trial of this case, if the current presiding judge is unavailable. The list of potential alternate judges is: 1) Honorable David C. Nye; 2) Honorable Robert C. Naftz; 3) Honorable Mitchell W. Brown; 4) Honorable Peter D. McDermott; 5) Honorable William H. Woodland; 6) Honorable Richard T. St. Clair; 7) Honorable Don W. Harding. If the I.C.R. 25(a) disqualification has not previously been exercised, failure to disqualify, without cause, any one of these alternate judges within fourteen (14) days of the date of this Order shall constitute a waiver of such right.

IT IS HEREBY ORDERED that the above named Defendant appear for a hearing on Defendant's **MOTION TO REDUCE BAIL** on **TUESDAY, FEBRUARY 19, 2013 AT THE HOUR OF 9:30 A.M.**

IT IS FURTHER ORDERED that the transcript of the preliminary hearing held on February

5, 2013 before the Honorable David Kress shall be prepared.

DATED February 12, 2013.


STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12 day of Feb, 2013, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

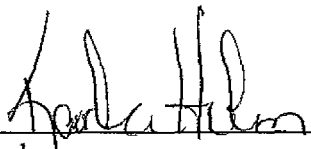
Bannock County Jail

☐ U.S. Mail
☐ Email
☒ Hand Deliver
☐ Facsimile

Linda Larsen

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

DATED this 12 day of Feb, 2013.


Deputy Clerk

Case No. CR-2013-00864-FE
MINUTE ENTRY & ORDER -6

RANDALL D. SCHULTHIES
Chief Public Defender
P. O. Box 4147
Pocatello, Idaho 83205
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT

13 FEB 12 PM 4:29

BY CA
DEPUTY

KENT V. REYNOLDS
Assistant Chief Deputy Public Defenders
ISB 3739

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN F. GAS,

Defendant.

Case No. CR-2013-00864-FE-A

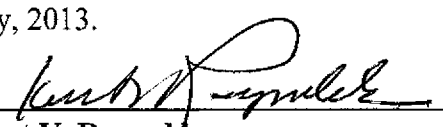
MOTION FOR BOND REDUCTION

COMES NOW Aman F. Gas, the Defendant in the above entitled matter, acting by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender of the Bannock County Public Defender's Office and hereby moves the Court for an Order, as follows:

Defendant is currently being held on a thirty thousand dollar (30,000.00) bond on the above mentioned case. Defendant is requesting to have his bond reduced.

Oral argument is requested.

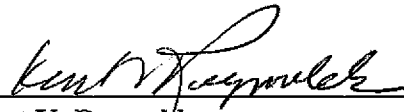
DATED this 12 day of February, 2013.


Kent V. Reynolds
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 12 day of February, 2013, I served a true and correct copy of the **MOTION FOR BOND REDUCTION** upon the parties below as follows:

Bannock County	<input checked="" type="checkbox"/>	Hand Deliver
Prosecuting Attorney	<input type="checkbox"/>	First Class Mail
Prosecutor's in-box, Room 220	<input type="checkbox"/>	Certified Mail
Bannock County Courthouse	<input type="checkbox"/>	Facsimile
Pocatello, Idaho 83205		



Kent V. Reynolds
Assistant Chief Deputy Public Defender

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JaNIECE PRICE, ISB 7161
Deputy Prosecutor

FILED
BANNOCK COUNTY
CLERK OF THE COURT
13 FEB 13 PM 5:01
BY JA DEPUTY

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN FARAH GAS,

Defendant.

CASE NO. CR-13-864-FE A

REQUEST FOR DISCOVERY

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

PLEASE TAKE NOTICE that the undersigned, pursuant to Rule 16 of the Idaho Criminal Rules requests discovery and inspection of the following information, evidence, and materials:

1. Any books, papers, documents, photographs, tangible objects or copies or portions thereof, including but not limited to recordings made during defendant's incarceration, which are within the possession, custody or control of the Defendant, and which the Defendant intends to introduce at trial in the above-mentioned case.

2. Copies of any and all results or reports of physical or mental examinations and of any scientific tests or experiments made in connection with the above-mentioned case, or copies thereof, within the possession or control of the Defendant which the Defendant intends to introduce at trial, or which were prepared by a witness whom the defendant intends to call at trial when the results or reports relate to testimony of the witness.

3. Describe any and all documents and tangible evidence, not previously disclosed, which Defendant intends to introduce or may introduce at trial.

4. The names and addresses of lay witnesses the Defendant intends to call at trial, and the substance of the testimony of such witnesses.

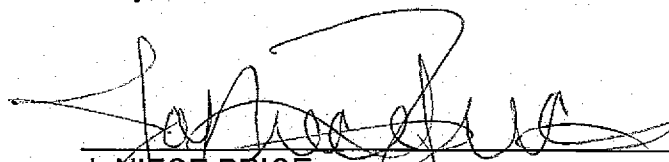
5. The names and addresses of expert witnesses the Defendant intends to call at trial, and the substance of the testimony of such witnesses.

6. Under Idaho Code §19-519, if you intend to offer evidence of an alibi in your defense, you are hereby required to serve upon me, the undersigned Prosecuting Attorney for Bannock County, Idaho, within ten (10) days, a notice in writing of your intention to claim such alibi which said notice shall contain specific information as the place(s) and time(s) at said place(s) at which you claim to have been on the day of the alleged offense, and as particularly as is known to you or your attorney, the names and addresses of the individual(s) and/or testimonial witnesses by whom you propose to establish such alibi.

7. This is a continuing Request for Discovery and the Attorney for the Defense shall timely file such supplemental responses with the Court and shall serve the same upon the State as may be required from time to time to correctly set forth all further and different information obtained by the Attorney for the Defense.

The undersigned further requests that said information, evidence and materials be presented to the Office of the Prosecuting Attorney, Bannock County Courthouse, Pocatello, Idaho, on or before the fourteenth day from which it has been signed, or at such other date and time mutually agreed to by counsel.

DATED this 13th day of February, 2013.

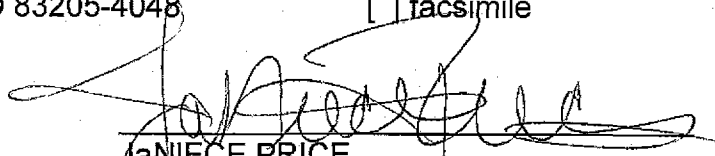

JANIECE PRICE
Deputy Prosecutor
Bannock County, Idaho

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 13th day of February, 2013, a true and correct copy of the foregoing REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205-4048

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile


JANIECE PRICE

FILED
BANNOCK COUNTY
CLERK OF THE COURT
13 MAR -4 PM 4:03
BY DEPUTY

2. Please provide the identity of the convenience store where the alleged victim and her friend stopped on the night of the alleged occurrence.
3. Please provide any and all information regarding the credit/debit card that was used by the alleged victim and her friend to make a purchase of alcoholic beverages at the convenience store.
4. Please identify the name, address and telephone number for the alleged victim's sexual partners for the last three years.
5. Please provide the identity of any telephone or cell phone carriers for the following individuals along with the telephone/cell phone numbers:


Richard Sammons

Andrea Ogalla

Abhishek Dwivedi

Raushelle Goodin-Guzman

Dated this 4 day of March, 2013.

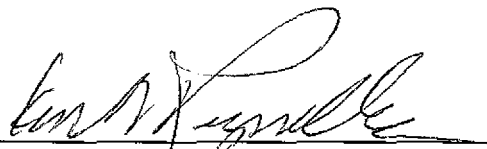

KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 4 day of March, 2013, I served a true and correct copy of the **SECOND DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail Bannock County
☐ Facsimile


KENT V. REYNOLDS
Deputy Public Defender

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

FILED
BANNOCK COUNTY
CLERK OF THE COURT
13 FEB 13 PM 5:01
BY JA
DEPUTY

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-13-864-FE <u>A</u>
Plaintiff,)	
	)	RESPONSE TO REQUEST
vs.	)	FOR DISCOVERY
)	
AMAN FARAH GAS,)	
)	
Defendant.)	
_____)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Request for Discovery as follows:

REQUEST NO. 1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/ or others who have First Discovery Motion participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1a & b: None known at this time.

REQUEST NO.2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

REQUEST NO. 2a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: For statements made by the defendant, please refer to Pocatello Police Department police report, LI#13-P01084 located on the Evidence Disc and defendant's recorded interviews two on the Evidence Disc and one on a DVD which are attached hereto and incorporated by reference.

REQUEST NO. 2b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There are no known co-defendants.

REQUEST NO. 2c. Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: The defendant's criminal history located on the Evidence CD attached hereto and incorporated by reference.

REQUEST NO. 2d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at the Preliminary Hearing and/or trial, or obtained from the Defendant.

RESPONSE NO 2d: Evidence which may be introduced at trial is as follows: interviews of Gas and Ogolla on DVDs and ...

911 call	gas hipaa form	officer browns notes
2013-01-23 REPORT 13-P01084	gas medical records	officer notes
130120_001 Ofc Buck w Gas	Goodin Guzman Hyde St	Ogolla
130120_002 Ofc Buck w Gas	Goodin Guzman PMC 1	Picture 001
adult rights form	Goodin Guzman PMC 2 and Dwivedi PMC	Picture 002
consent to search	Goodin Guzman PMC 3	Picture 086
criminal complaint	guzman hipaa form	Picture 087
discharge instructions	guzman medical records	Picture 088
Gas Criminal History	interview notes	sketch

REQUEST NO. 2e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting First Discovery Motion Attorney as access, or are intended for use by the Prosecuting Attorney as evidence at the Preliminary Hearing and/or at trial, or obtained from the Defendant. J.

RESPONSE NO 2e: The following books, papers, documents, photographs, tangible objects, buildings or places are either attached hereto and incorporated by reference: interviews of Gas and Ogolla on DVDs and ...

911 call	gas hipaa form	officer browns notes
2013-01-23 REPORT 13-P01084	gas medical records	officer notes
130120_001 Ofc Buck w Gas	Goodin Guzman Hyde St	Ogolla
130120_002 Ofc Buck w Gas	Goodin Guzman PMC 1	Picture 001
adult rights form	Goodin Guzman PMC 2 and Dwivedi PMC	Picture 002
consent to search	Goodin Guzman PMC 3	Picture 086
criminal complaint	guzman hipaa form	Picture 087
discharge instructions	guzman medical records	Picture 088
Gas Criminal History	interview notes	sketch

REQUEST NO. 2f Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO 2f: For physical/mental examinations, scientific tests or experiments pertaining to this matter, please see previous responses.

REQUEST NO. 2g. Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the Preliminary Hearing and/or trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following persons may be called to testify at hearing or trial in this matter:

- Raushelle Goodin Guzman, 145 Hillcrest #38, Af, 269-0498 Msg
- Andrea Ogolla, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854
- Monique Hamblin, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854
- Richard Sammons, 3132 Neeley, Af, 269-0498
- Abhishek Dwivedi, 1222 Freeman Ln #139, Pocatello, 240-7736
- Ann Wilcox RN, PMC
- Curtis Sandy MD, PMC
- Gina Sterner RN, PMC
- Tracy Marshall, PPD
- William Brown, PPD
- Matthew Shutes, PPD
- Tarl Lambson, PPD
- Justin Buck, PPD
- Jeffrey Eldridge, PPD

At the present time, to the best knowledge of the plaintiff, only the aforementioned individuals with an "*" before their name have a record of felony convictions which are attached hereto and incorporated by reference.

REQUEST NO. 2h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO 2h: For statements made by witnesses, please see Pocatello Police Department police report, LI#13-P01084, attached hereto and incorporated by reference.

REQUEST NO. 2i. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

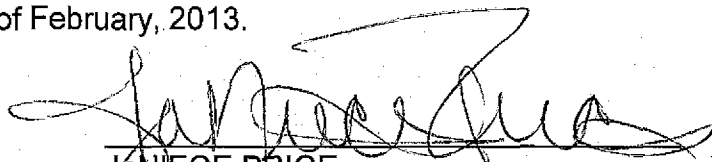
RESPONSE NO 2i: For reports and memorandum made by a police officer or investigator, please see Pocatello Police Department police report, LI#13-P01084 and officer notes located on the Evidence Disc attached hereto and incorporated by reference.

REQUEST NO. 2j. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: For intercepted jail conversations, please contact the Bannock County Jail.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 13th day of February, 2013.

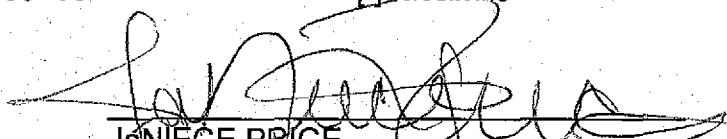

JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 13th day of February, 2013, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile


JANIECE PRICE

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

FILED
BANNOCK CO
CLERK OF THE

13 MAR 11 PM 5:03

BY CA
DEPUTY

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-13-864-FE/A
Plaintiff,)	
	)	RESPONSE TO SECOND
vs.	)	DISCOVERY MOTION
)	
AMAN FARAH GAS,)	
)	
Defendant.)	
_____)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Request for Discovery as follows:

1. Please provide copies of the face book messages allegeldy (*sic*) sent
by the alleged victim to others on the night of the alleged occurrence along with the
response communications or messages.

**RESPONSE TO 1: Please see pictures 086, 087 and 088 previously supplied
on the Evidence Disc. These are pictures of the victim's Facebook ""chat"" with her
father taken the night of the incident by Officer Shutes and referenced in his
supplement.**

2. Please provide the identity of the convenience store where the alleged victim and her friend stopped on the night of the alleged occurrence.

RESPONSE TO 2: The State objects to this request as noted in the Preliminary Transcript on pages 21 to 22 wherein the victim testified that she did not know the name or location of the convenience store.

3. Please provide any and all information regarding the credit/debit card that was used by the alleged victim and her friend to make a purchase of alcoholic beverages at the convenience store

RESPONSE TO 3: The State objects to this request as not relevant and is overly broad.

4. Please identify the name, address and telephone number for the alleged victim's sexual partners for the three years.

RESPONSE TO 4: The State objects to this request as not relevant and is overly broad.

5. Please provide the identity of any telephone or cell phone carriers for the following individuals along with the telephone/cell phone numbers:

Richard Sammons
Andrea Ogalla
Abhishek Dwivedi
Raushelle Goodin-Guzman

RESPONSE TO 5: The State objects to this request as not relevant and is overly broad.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 11 day of March, 2013.


JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

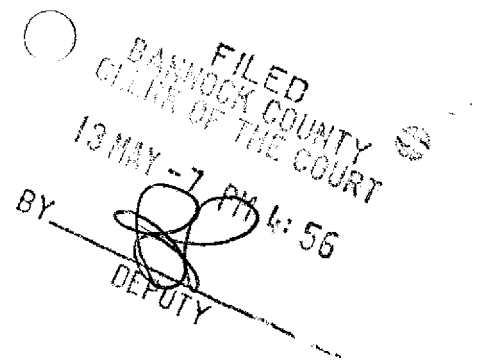
I HEREBY CERTIFY That on this 11th day of March, 2013, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile


JANIECE PRICE

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
Telephone (208) 236-7280



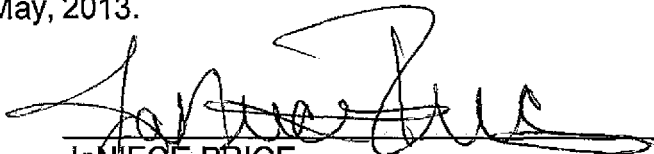
JaNIECE PRICE, ISB #7161
Assistant Chief Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR-13-864-FE-A
)	
vs.	)	MOTION TO CONTINUE
)	
AMAN FARAH GAS,)	
)	
Defendant.)	
_____)	

COMES NOW, the State of Idaho, by and through JaNIECE PRICE, Assistant Chief Deputy Prosecuting Attorney for Bannock County, Idaho, and respectfully moves this Court for an Order continuing the JURY TRIAL scheduled on MAY 21, 2013, before the Honorable STEPHEN S. DUNN on the grounds and for the reasons that forensic reports will not be available until after that date.

DATED this 7th day of May, 2013.



JaNIECE PRICE
Assistant Chief Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I **HEREBY CERTIFY** That on this 7th day of May, 2013, a true and correct copy of the foregoing MOTION TO CONTINUE was delivered to the following:


KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205-4048

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile



JaNIECE PRICE

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

FILED
BANNOCK COUNTY
CLERK OF THE COURT
13 MAY -7 PM 4:56
BY 
DEPUTY

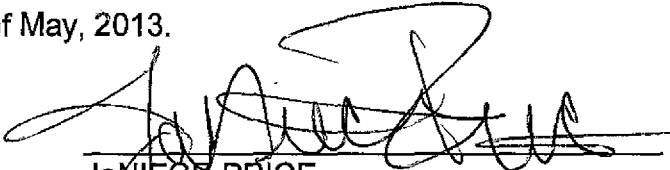
JaNIECE PRICE, ISB #
Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-13-864-FE-A
Plaintiff,)	
)	
vs.)	
	)	NOTICE OF HEARING
AMAN FARAH GAS,)	
)	
Defendant.)	
_____)	

NOTICE IS HEREBY GIVEN, TO Court and Defendant that the State of Idaho will call up for hearing, its MOTION TO CONTINUE, on Monday, MAY 13, 2013, at the hour of 9:30 A.M., before the Honorable STEPHEN S. DUNN, Sixth District Judge, Courtroom No. 309, at the Bannock County Courthouse in Pocatello, Idaho.

DATED This 7th day of May, 2013.

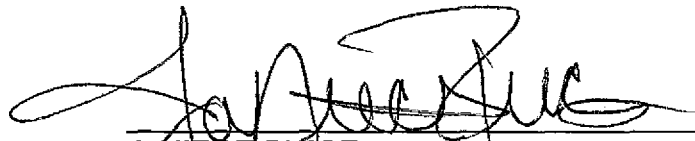

JaNIECE PRICE
Assistant Chief Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I **HEREBY CERTIFY** That on this 7th day of May, 2013, a true and correct copy of the foregoing NOTICE OF HEARING was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205-4048

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile



JANIECE PRICE

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2013 MAY 14 AM 11:27

BY [Signature]
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN FARAH GAS,

Defendant.

MINUTE ENTRY & ORDER

On May 13, 2013, the above-named Defendant appeared in Court with his counsel, Kent V. Reynolds, for a hearing on the State's Motion to Continue. Ashley Graham, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheri Turner performed as Court Reporter for this proceeding.

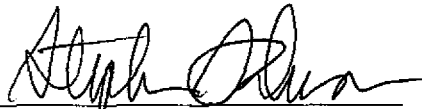
The Court heard argument from counsel for the State regarding the Motion. Counsel for the Defendant objected to the Motion and provided argument.

The Court **GRANTED** the State's Motion to Continue.

Register CR-2013-00864-FE
MINUTE ENTRY & ORDER
Page 1

IT IS HEREBY ORDERED that the **JURY TRIAL** in this matter shall be **CONTINUED**
until **TUESDAY, JUNE 18, 2013 AT THE HOUR OF 9 A.M.** with a **PRETRIAL**
CONFERENCE to be held on **MONDAY, JUNE 3, 2013 AT THE HOUR OF 4 P.M.**

DATED May 13, 2013.

A handwritten signature in black ink, appearing to read "Stephen S. Dunn", written over a horizontal line.

STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14 day of May, 2013, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile


Bannock County Jail

☐ U.S. Mail
☐ Email
☒ Hand Deliver
☐ Facsimile

DATED this 14 day of May, 2013.

[Signature]
Deputy Clerk

RANDALL D. SCHULTHIES
Chief Public Defender
P. O. Box 4147
Pocatello, Idaho 83205
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF DISTRICT COURT
13 MAY 21 PM 4:07
BY 
DEPUTY

KENT V. REYNOLDS
Assistant Chief Deputy Public Defenders
ISB 3739

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
)	
Plaintiff,)	
	)	Case No. CR-2013-00864-FE-A
vs.)	
)	
AMAN F. GAS,	)	MOTION FOR O. R. RELEASE
	)	OR IN THE ALTERNATIVE A
Defendant.	)	BOND REDUCTION
_____)	

COMES NOW Aman F. Gas, the Defendant in the above entitled matter, acting by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender of the Bannock County Public Defender's Office and hereby moves the Court for an Order, as follows:

Defendant is currently being held on a thirty thousand dollar (30,000.00) bond on the above mentioned case. Defendant is requesting to be released on his own recognizance or in the alternative have his bond reduced.

Oral argument requested.

DATED this 21 day of May, 2013.


Kent V. Reynolds
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that on the 21 day of May, 2013, I served a true and correct copy of the **MOTION FOR O.R. RELEASE OR IN THE ALTERNATIVE A BOND REDUCTION** upon the parties below as follows:

Bannock County	<input checked="" type="checkbox"/>	Hand Deliver
Prosecuting Attorney	<input type="checkbox"/>	First Class Mail
Prosecutor's in-box, Room 220	<input type="checkbox"/>	Certified Mail
Bannock County Courthouse	<input type="checkbox"/>	Facsimile
Pocatello, Idaho 83205		


Kent V. Reynolds
Assistant Chief Deputy Public Defender

RANDALL D. SCHULTHIES
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739


FILED
BANNOCK COUNTY
CLERK OF COURT
13 MAY 23 PM 4:04
BY  DEPUTY

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO)	
	)	Case No. CR-2013-00864-FE-A
Plaintiff)	
)	
v.)	
	)	NOTICE OF HEARING
AMAN F. GAS,)	
	)	Monday, June 3, 2013
Defendant.	)	at 9:30 a.m.
_____)	

PLEASE TAKE NOTICE that the undersigned will bring a **MOTION FOR
O.R. RELEASE OR IN THE ALTERNATIVE A BOND REDUCTION** before the
Honorable Stephen S. Dunn, on Monday, June 3, 2013, at 9:30 a.m.

DATED this 23 day of May, 2013.

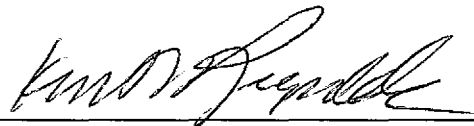

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 23 day of May, 2013, I served a true and correct copy of the **NOTICE OF HEARING** was served upon the parties below as follows:

Bannock County Prosecutors
Prosecutor's in-box, room 220
Bannock County Courthouse
Pocatello, ID 83205

☒ Hand Deliver



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2013 JUN -5 PM 3:30

BY KLL
DEPUTY CLERK

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN F. GAS,

Defendant.


MINUTE ENTRY & ORDER

On June 3, 2013, the above named Defendant appeared in Court with his counsel, Kent V. Reynolds, for a hearing on Defendant's Motion for O.R. Release of in the Alternative a Bond Reduction. Jeff Cronin, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

The Court heard argument from counsel for the Defendant regarding the Defendant's Motion. The State objected to the Motion and provided argument.

The Court **DENIED** the Defendant's Motion for the reasons stated on the record in open court.

DATED June 4, 2013.


STEPHEN S. DUNN
District Judge

Register CR-2013-00864-FE
MINUTE ENTRY & ORDER
Page 1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5 day of June, 2013, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

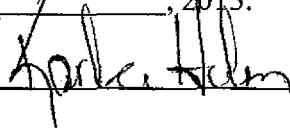
Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Bannock County Jail

☐ U.S. Mail
☐ Email
☒ Hand Deliver
☐ Facsimile

DATED this 5 day of June, 2013.


Deputy Clerk

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2013 JUN -7 PM 12:46

BY KH

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK COUNTY

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-VS-

AMAN GAS,

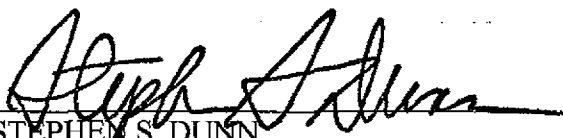
Defendant.

ORDER RESETTING JURY TRIAL
AND PRE-TRIAL

Good cause existing therefore;

IT IS HEREBY ORDERED that the JURY TRIAL in the above entitled matter be and the same is RESET before the undersigned District Judge for TUESDAY, JULY 16, 2013, AT THE HOUR OF 9 A.M. with a PRE-TRIAL CONFERENCE set for MONDAY, JULY 1, 2013 AT THE HOUR OF 4 P.M. at the Bannock County Courthouse, Pocatello, Idaho.

DATED June 7, 2013.


STEPHEN S. DUNN
District Judge

Register No. CR-2013-00864-FE
ORDER
Page 1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7 day of June, 2013, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

DATED this 7 day of June, 2013.

Deputy Clerk

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF DISTRICT COURT
13 JUL 12 PM 2:01
BY
DEPUTY

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

vs.

AMAN GAS,

Defendant.

)
) **CASE NO. CR-2013-864-FE-7**
)
)

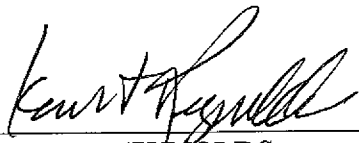
) **MOTION FOR DNA TESTING**
)
)
)
)
)
)
)

Comes now the Defendant, Aman Gas, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules and moves this Court for its order to require the consensual sexual partner of the alleged victim, Abhishek Dwivedi, with whom the alleged victim had consensual sex. The lab results indicate that DNA testing has not been completed and that to complete the DNA testing, the known sample of the known consensual partner is required to do the DNA testing and comparison. A copy of the forensics lab result is attached hereto and incorporated herein by reference.

Motion for DNA Testing
Page - 1

Oral argument is requested.

Dated this 12 day of June, 2013.


KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

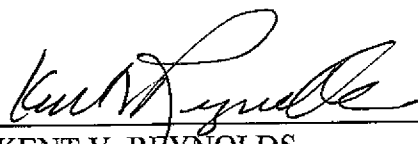
I HEREBY CERTIFY that on the 12 day of June, 2013, I served a true and correct copy of the **MOTION FOR DNA TESTING** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail Bannock County
☐ Facsimile

Abhishek Dwivedi
1222 Freeman Lane #139
Pocatello, Idaho 83201
240-7736

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail Bannock
☐ Facsimile


KENT V. REYNOLDS
Deputy Public Defender

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2013 JUN 19 AM 10:11

DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN GAS,

Defendant.

MINUTE ENTRY & ORDER

On June 17, 2013, the above named Defendant appeared in Court with his counsel, Kent V. Reynolds, for a hearing on Defendant's Motion for DNA Testing. Jeff Cronin, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheri Turner performed as Court Reporter for this proceeding.

At the outset, counsel for the Defendant advised the Court that this Motion is being withdrawn and provided explanation to the Court.

DATED June 18, 2013.


STEPHEN S. DUNN
District Judge

Register CR-2013-00864-FE
MINUTE ENTRY & ORDER
Page 1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19 day of June, 2013, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

- ☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile


Kent V. Reynolds
Bannock County Public Defender

- ☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

DATED this 19 day of June, 2013.

Mark Helm
Deputy Clerk

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

FILED
BANNOCK COUNTY
CLERK OF DISTRICT COURT
13 JUN 11 PM 4:41
BY  DEPUTY

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN FARAH GAS,

Defendant.

CASE NO. CR-13-864-FE 

**FIRST SUPPLEMENTAL
RESPONSE TO
DISCOVERY REQUEST**

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Request for Discovery as follows:

REQUEST NO. 1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/ or others who have First Discovery Motion participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1a & b: None known at this time.

REQUEST NO.2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

REQUEST NO. 2a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: For statements made by the defendant, please refer to Pocatello Police Department police report, LI#13-P01084 located on the Evidence Disc and defendant's recorded interviews two on the Evidence Disc and one on a DVD which are attached hereto and incorporated by reference.

06/14/13 -- ADDITIONAL: Also see Pocatello Police Department supplement to Offense Report #13-P01084 by T. Marshall attached hereto and incorporated by reference

REQUEST NO. 2b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There are no known co-defendants.

REQUEST NO. 2c. Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: The defendant's criminal history located on the Evidence CD attached hereto and incorporated by reference.

REQUEST NO. 2d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at the Preliminary Hearing and/or trial, or obtained from the Defendant.

RESPONSE NO 2d: Evidence which may be introduced at trial is as follows: interviews of Gas and Ogolla on DVDs and ...

911 call	gas hipaa form	officer browns notes
2013-01-23 REPORT 13-P01084	gas medical records	officer notes
130120_001 Ofc Buck w Gas	Goodin Guzman Hyde St	Ogolla
130120_002 Ofc Buck w Gas	Goodin Guzman PMC 1	Picture 001
adult rights form	Goodin Guzman PMC 2 and Dwivedi PMC	Picture 002
consent to search	Goodin Guzman PMC 3	Picture 086
criminal complaint	guzman hipaa form	Picture 087
discharge instructions	guzman medical records	Picture 088
Gas Criminal History	interview notes	sketch

06/14/2013 -- ADDITIONAL

- 2013-05-10 Lab Results
- 2013-05-31 Emails Prosecutor's office with Forensic Lab
- 2013-06-03 13-P01084 Marshall Supplement
- 2013-06-12 T. Marshall email re DNA on consensual partner
- fb messages
- phone call history

REQUEST NO. 2e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting First Discovery Motion Attorney as access, or are intended for use by the Prosecuting Attorney as evidence at the Preliminary Hearing and/or at trial, or obtained from the Defendant. J.

RESPONSE NO 2e: The following books, papers, documents, photographs, tangible objects, buildings or places are either attached hereto and incorporated by reference: interviews of Gas and Ogolla on DVDs and ...

911 call	gas hipaa form	officer browns notes
2013-01-23 REPORT 13-P01084	gas medical records	officer notes
130120_001 Ofc Buck w Gas	Goodin Guzman Hyde St	Ogolla
130120_002 Ofc Buck w Gas	Goodin Guzman PMC 1	Picture 001
adult rights form	Goodin Guzman PMC 2 and Dwivedi PMC	Picture 002
consent to search	Goodin Guzman PMC 3	Picture 086
criminal complaint	guzman hipaa form	Picture 087
discharge instructions	guzman medical records	Picture 088
Gas Criminal History	interview notes	sketch

06/14/2013 -- ADDITIONAL

- 2013-05-10 Lab Results
- 2013-05-31 Emails Prosecutor's office with Forensic Lab
- 2013-06-03 13-P01084 Marshall Supplement
- 2013-06-12 T. Marshall email re DNA on consensual partner
- fb messages
- phone call history

REQUEST NO. 2f Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO 2f: For physical/mental examinations, scientific tests or experiments pertaining to this matter, please see previous responses.

REQUEST NO. 2g. Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the Preliminary Hearing and/or trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following persons may be called to testify at

hearing or trial in this matter:

- **Raushelle Goodin Guzman, 145 Hillcrest #38, Af, 269-0498 Msg**
- **Andrea Ogolla, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854**
- **Monique Hamblin, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854**
- **Richard Sammons, 3132 Neeley, Af, 269-0498**
- **Abhishek Dwivedi, 1222 Freeman Ln #139, Pocatello, 240-7736**
- **Ann Wilcox RN, PMC**
- **Curtis Sandy MD, PMC**
- **Gina Sterner RN, PMC**
- **Tracy Marshall, PPD**
- **William Brown, PPD**
- **Matthew Shutes, PPD**
- **Tarl Lambson, PPD**
- **Justin Buck, PPD**
- **Jeffrey Eldridge, PPD**

06/14/2013 -- ADDITIONAL

- **Jamie Femreite, ISP Forensic Lab - Meridian**

**At the present time, to the best knowledge of the plaintiff, only the
aforementioned individuals with an “*” before their name have a record of felony
convictions which are attached hereto and incorporated by reference.**

**REQUEST NO. 2h. Please furnish statements made by prosecution
witnesses or prospective prosecution witnesses to the prosecuting attorney or the
prosecuting attorney's agents or to any official involved in the investigatory process of
this case.**

**RESPONSE NO 2h: For statements made by witnesses, please see Pocatello
Police Department police report, LI#13-P01084, attached hereto and incorporated
by reference.**

**06/14/13 -- ADDITIONAL: Also see Forensic Lab Results and emails attached
hereto and incorporated by reference.**

REQUEST NO. 2i. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

RESPONSE NO 2i: For reports and memorandum made by a police officer or investigator, please see Pocatello Police Department police report, LI#13-P01084 and officer notes located on the Evidence Disc attached hereto and incorporated by reference.

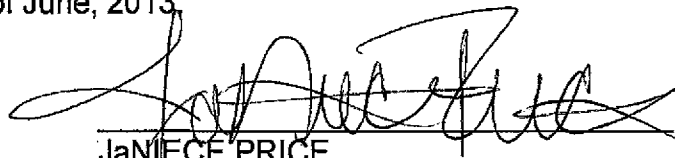
06/14/13 -- ADDITIONAL: Also see Forensic Lab Results and Pocatello Police Department Offense supplement to Report #13-P01084 by T. Marshall attached hereto and incorporated by reference.

REQUEST NO. 2j. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: For intercepted jail conversations, please contact the Bannock County Jail.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 14th day of June, 2013.

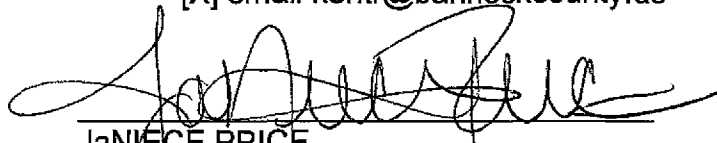

JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I **HEREBY CERTIFY** That on this 14th day of June, 2013, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☐ hand delivery
☒ email-kentr@bannockcounty.us



JANIECE PRICE

Jeanne Hobson

From: Kent Reynolds
To: Jeanne Hobson
Sent: Friday, June 14, 2013 02:36 PM
Subject: Read: State v. Aman Gas - CR-13-864-FE-A, FIRST SUPPLEMENTAL RESPONSE TO DISCOVERY REQUEST

Your message

To: Kent Reynolds
Subject: State v. Aman Gas - CR-13-864-FE-A, FIRST SUPPLEMENTAL RESPONSE TO DISCOVERY REQUEST
Sent: 6/14/2013 10:34 AM

was read on 6/14/2013 02:36 PM.

Jeanne Hobson

From: Jeanne Hobson
Sent: Friday, June 14, 2013 10:34 AM
To: Kent Reynolds
Subject: State v. Aman Gas - CR-13-864-FE-A, FIRST SUPPLEMENTAL RESPONSE TO DISCOVERY REQUEST
Attachments: 2013-06-14 KENT REYNOLDS RESP FIRST SUPP.pdf; 2013-05-10 Lab Results.pdf; 2013-05-31 Emails Prosecutor's office with Forensic Lab.pdf; 2013-06-03 13-P01084 Marshall Supplement.pdf; 2013-06-12 T. Marshall email re DNA on consensual partner.pdf; fb messages.pdf; phone call history.pdf

Dear Kent,


Enclosed please find our First Supplemental Response to Discovery Request with attachments.

Sincerely,

Jeanne

Office Coordinator/Lead Legal Secretary
Bannock County Prosecutor's Office
P O Box "P"
Pocatello, ID 83205-0050
208-236-7280 - Main
208-236-7283 - Desk
208-236-7288 - Fax

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
Telephone (208) 236-7280

FILED
BANNOCK COUNTY
DISTRICT COURT
13 JUL -2 PM 3:56
BY 
DEPUTY

JaNIECE PRICE, ISB# 7161
Assistant Chief Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
AMAN FARAH GAS,)
)
Defendant.)
_____)

CASE NO. CR-2013-864-FE *A*

MOTION TO CONTINUE
JURY TRIAL

COMES NOW, the State of Idaho, by and through JaNIECE PRICE, Assistant Chief Deputy Prosecuting Attorney for Bannock County, Idaho, and respectfully moves this Court for an Order continuing the Jury Trial scheduled for July 16, 2013, at the hour of 9:00 a.m., before the Honorable Judge STEPHEN S. DUNN, on the grounds and for the reason that further Forensic Lab Results are still pending. The State would request that the Jury Trial be rescheduled for a later date.

DATED this 2nd day of July, 2013.



JaNIECE PRICE
Assistant Chief Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 2nd day of July, 2013, a true and correct copy of the foregoing MOTION TO CONTINUE JURY TRIAL was delivered to the following:

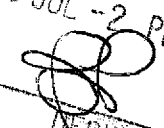
KENT V. REYNOLDS
PUBLIC DEFENDERS
BANNOCK COUNTY COURTHOUSE
POCATELLO, ID 83201

☐ mail -
postage prepaid
☐ hand delivery
☐ facsimile
☒ courthouse mail



JANIECE PRICE

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
Telephone (208) 236-7280

FILED
BANNOCK COUNTY
CLERK OF DISTRICT COURT
13 JUL -2 PM 3:56
BY 
DEPUTY

JaNIECE PRICE, ISB# 7161
Assistant Chief Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK


STATE OF IDAHO,

Plaintiff,

vs.

AMAN FARAH GAS,

Defendant.

CASE NO. CR-2013-864-FE 

ORDER & NOTICE OF HEARING

NOTICE IS HEREBY GIVEN, TO Court and Defendant that the State of Idaho will call up for hearing, its MOTION TO CONTINUE, on Monday, July 8, 2013, at the hour of 9:30 a.m., before the Honorable STEPHEN S. DUNN, Sixth District Judge, Courtroom No. 301 at the Bannock County Courthouse in Pocatello, Idaho.

DATED this 2nd day of July, 2013.


JaNIECE PRICE
Assistant Chief Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2013 JUL 10 AM 10:52

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN F. GAS,

Defendant.

BY KH
DEPUTY CLERK

MINUTE ENTRY & ORDER

On July 8, 2013, the above named Defendant appeared in Court with his counsel, Lindsey Blake for Kent V. Reynolds, for a hearing on the State's Motion to Continue Jury Trial. JaNiece Price, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheri Turner performed as Court Reporter for this proceeding.

The Defendant objected to the Motion and provided argument.

The Court **GRANTED** the Motion for the reasons stated on the record in open court.

IT IS HEREBY ORDERED that the JURY TRIAL in the above entitled matter be and the same is RESET before the undersigned District Judge for TUESDAY, AUGUST 20, 2013, AT THE HOUR OF 9 A.M. with a PRE-TRIAL CONFERENCE set for MONDAY, AUGUST 5, 2013 AT THE HOUR OF 4 P.M. at the Bannock County Courthouse, Pocatello, Idaho.

DATED July 9, 2013.


STEPHEN S. DUNN
District Judge

Register CR-2013-0864-FE
MINUTE ENTRY & ORDER
Page 1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10 day of July, 2013, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

- ☐ U.S. Mail
- ☒ Email
- ☐ Hand Deliver
- ☐ Facsimile

Kent V. Reynolds
Bannock County Public Defender

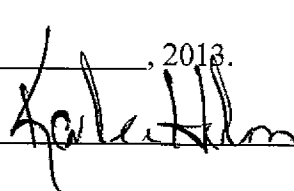
- ☐ U.S. Mail
- ☒ Email
- ☐ Hand Deliver
- ☐ Facsimile

Bannock County Jail

- ☐ U.S. Mail
- ☐ Email
- ☒ Hand Deliver
- ☐ Facsimile

- ☐ U.S. Mail
- ☒ Email
- ☐ Hand Deliver
- ☐ Facsimile

DATED this 10 day of July, 2013.


Deputy Clerk

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
Telephone (208) 236-7280

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2013 AUG 14 AM 10:08

BY 
DEPUTY CLERK

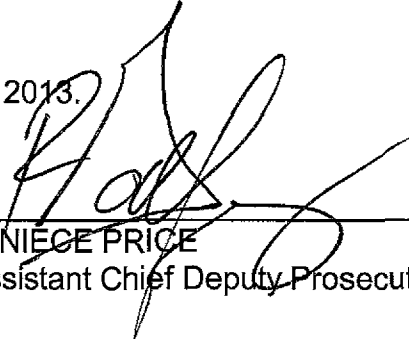
JaNIECE PRICE, ISB# 7161
Assistant Chief Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE
Plaintiff,)	
	)	MOTION TO CONTINUE
vs.	)	JURY TRIAL
)	
AMAN FARAH GAS,)	
)	
Defendant.)	
_____)	

COMES NOW, the State of Idaho, by and through JaNIECE PRICE, Assistant Chief Deputy Prosecuting Attorney for Bannock County, Idaho, and respectfully moves this Court for an Order continuing the Jury Trial scheduled for August 20, 2013, at the hour of 9:00 a.m., before the Honorable Judge STEPHEN S. DUNN, on the grounds and for the reason that further Forensic Lab Results are still pending per the email response from Jamie Femreite of the ISP Forensic Lab. The State requests that trial be continued for four weeks.

DATED this 6 day of August, 2013.


JaNIECE PRICE
Assistant Chief Deputy Prosecuting Attorney

Jeanne Hobson

From: Femreite, Jamie [jamie.femreite@isp.idaho.gov]
Sent: Tuesday, August 06, 2013 03:12 PM
To: Jeanne Hobson
Subject: RE: Lab Case No. M20130247 - State v. Aman Gas

Jeanne,

It looks like one of our DNA analysts is currently working on your case. She has advised that turn-around will be about 2-3 weeks from today.

I hope this answers your question. Please keep me or the lab abreast of any pending trial dates.

Thanks,

Jamie Femreite

Forensic Scientist I
700 S. Stratford Dr. Suite 125
Meridian, ID 83642
208.884.7175

CONFIDENTIALITY NOTICE: This e-mail is intended only for the personal and confidential use of the individual(s) named as recipients (or the employee or agent responsible to deliver it to the intended recipient) and is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521. It may contain information that is privileged, confidential and/or protected from disclosure under applicable law including, but not limited to, the attorney client privilege and/or work product doctrine. If you are not the intended recipient of this transmission, please notify the sender immediately by telephone. Do not deliver, distribute or copy this transmission, disclose its contents or take any action in reliance on the information it contains.

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
Telephone (208) 236-7280

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2013 AUG 14 AM 10:08

BY 
DEPUTY CLERK

JaNIECE PRICE, ISB# 7161
Assistant Chief Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE
Plaintiff,)	
	)	NOTICE OF HEARING
vs.)	
)	
AMAN FARAH GAS,)	
)	
Defendant.)	
_____)	

NOTICE IS HEREBY GIVEN, TO Court and Defendant that the State of Idaho will call up for hearing, its MOTION TO CONTINUE, on Monday, August 12, 2013, at the hour of 9:30 a.m., before the Honorable STEPHEN S. DUNN, Sixth District Judge, Courtroom No. 301 at the Bannock County Courthouse in Pocatello, Idaho.

DATED this 6 day of August, 2013.


JaNIECE PRICE
Assistant Chief Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I **HEREBY CERTIFY** That on this 6 day of August, 2013, a true and correct copy of the foregoing MOTION TO CONTINUE JURY TRIAL and NOTICE OF HEARING was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDERS
BANNOCK COUNTY COURTHOUSE
POCATELLO, ID 83201

☐ mail -
postage prepaid
☐ hand delivery
☐ facsimile
☒ courthouse mail



JaNIECE PRICE

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2013 AUG 14 AM 10:08

BY
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN FARAH GAS,

Defendant.

MINUTE ENTRY & ORDER

On August 12, 2013, the above named Defendant appeared in Court with his counsel, Kent V. Reynolds, for a hearing on the State's Motion to Continue Jury Trial. Stephen Herzog, Bannock County Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheri Turner performed as Court Reporter for this proceeding.

Counsel for the Defendant objected to the Motion and provided argument.

The Court GRANTED the Motion to Continue Jury Trial.

IT IS HEREBY ORDERED that the JURY TRIAL in the above entitled matter be and the same is RESET before the undersigned District Judge for TUESDAY, SEPTEMBER 17, 2013, AT

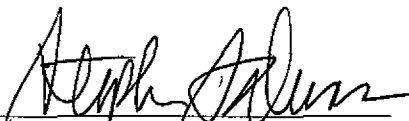
Register CR-2013-00864-FE

MINUTE ENTRY & ORDER

Page 1

THE HOUR OF 9 A.M. with a PRE-TRIAL CONFERENCE set for TUESDAY, SEPTEMBER 3,
2013 AT THE HOUR OF 4 P.M. at the Bannock County Courthouse, Pocatello, Idaho.

DATED August 12, 2013.



STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14 day of August, 2013, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Bannock County Jail


☐ U.S. Mail
☐ Email
☒ Hand Deliver
☐ Facsimile

DATED this 14 day of August, 2013.

Heidi Helm
Deputy Clerk

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2013 SEP -9 PM 1:37
BY  CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
AMAN FARAH GAS,)
)
Defendant.)
_____)

CASE NO. CR-13-864-FE 

**SECOND SUPPLEMENTAL
RESPONSE TO
DISCOVERY REQUEST**

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Request for Discovery as follows:

REQUEST NO. 1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/ or others who have First Discovery Motion participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1a & b: None known at this time.

REQUEST NO.2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

REQUEST NO. 2a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: For statements made by the defendant, please refer to Pocatello Police Department police report, LI#13-P01084 located on the Evidence Disc and defendant's recorded interviews two on the Evidence Disc and one on a DVD which are attached hereto and incorporated by reference.

06/14/13 -- ADDITIONAL: Also see Pocatello Police Department supplement to Offense Report #13-P01084 by T. Marshall attached hereto and incorporated by reference

REQUEST NO. 2b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There are no known co-defendants.

REQUEST NO. 2c. Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: The defendant's criminal history located on the Evidence CD attached hereto and incorporated by reference.

REQUEST NO. 2d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at the Preliminary Hearing and/or trial, or obtained from the Defendant.

RESPONSE NO 2d: Evidence which may be introduced at trial is as follows: interviews of Gas and Ogolla on DVDs and ...

911 call	gas hipaa form	officer browns notes
2013-01-23 REPORT 13-P01084	gas medical records	officer notes
130120_001 Ofc Buck w Gas	Goodin Guzman Hyde St	Ogolla
130120_002 Ofc Buck w Gas	Goodin Guzman PMC 1	Picture 001
adult rights form	Goodin Guzman PMC 2 and Dwivedi PMC	Picture 002
consent to search	Goodin Guzman PMC 3	Picture 086
criminal complaint	guzman hipaa form	Picture 087
discharge instructions	guzman medical records	Picture 088
Gas Criminal History	interview notes	sketch

06/14/2013 -- ADDITIONAL

- 2013-05-10 Lab Results
- 2013-05-31 Emails Prosecutor's office with Forensic Lab
- 2013-06-03 13-P01084 Marshall Supplement
- 2013-06-12 T. Marshall email re DNA on consensual partner
- fb messages
- phone call history

09/06/2013 -- ADDITIONAL: The State provided additional lab results to defense counsel via email, verification of which is attached hereto and incorporated herein.

REQUEST NO. 2e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting First Discovery Motion Attorney as access, or are intended for use by the Prosecuting Attorney as evidence at the Preliminary Hearing and/or at trial, or obtained from the Defendant. J.

RESPONSE NO 2e: The following books, papers, documents, photographs, tangible objects, buildings or places are either attached hereto and incorporated by reference: interviews of Gas and Ogolla on DVDs and ...

911 call	gas hipaa form	officer browns notes
2013-01-23 REPORT 13-P01084	gas medical records	officer notes
130120_001 Ofc Buck w Gas	Goodin Guzman Hyde St	Ogolla
130120_002 Ofc Buck w Gas	Goodin Guzman PMC 1	Picture 001
adult rights form	Goodin Guzman PMC 2 and Dwivedi PMC	Picture 002
consent to search	Goodin Guzman PMC 3	Picture 086
criminal complaint	guzman hipaa form	Picture 087
discharge instructions	guzman medical records	Picture 088
Gas Criminal History	interview notes	sketch

06/14/2013 -- ADDITIONAL:

- 2013-05-10 Lab Results
- 2013-05-31 Emails Prosecutor's office with Forensic Lab
- 2013-06-03 13-P01084 Marshall Supplement
- 2013-06-12 T. Marshall email re DNA on consensual partner
- fb messages
- phone call history

09/06/2013 -- ADDITIONAL: The State provided additional lab results to defense counsel via email, verification of which is attached hereto and incorporated herein.

REQUEST NO. 2f Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO 2f: For physical/mental examinations, scientific tests or experiments pertaining to this matter, please see previous responses.

REQUEST NO. 2g. Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the Preliminary Hearing and/or trial, together with

any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following persons may be called to testify at hearing or trial in this matter:

- Raushelle Goodin Guzman, 145 Hillcrest #38, Af, 269-0498 Msg
- Andrea Ogolla, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854
- Monique Hamblin, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854
- Richard Sammons, 3132 Neeley, Af, 269-0498
- Abhishek Dwivedi, 1222 Freeman Ln #139, Pocatello, 240-7736
- Ann Wilcox RN, PMC
- Curtis Sandy MD, PMC
- Gina Sterner RN, PMC
- Tracy Marshall, PPD
- William Brown, PPD
- Matthew Shutes, PPD
- Tarl Lambson, PPD
- Justin Buck, PPD
- Jeffrey Eldridge, PPD

06/14/2013 -- ADDITIONAL

- Jamie Femreite, ISP Forensic Lab - Meridian

09/06/2013 -- ADDITIONAL

- Rylene L. Nowlin, ISP Forensic Lab - Meridian

At the present time, to the best knowledge of the plaintiff, only the aforementioned individuals with an "*" before their name have a record of felony convictions which are attached hereto and incorporated by reference.

REQUEST NO. 2h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO 2h: For statements made by witnesses, please see Pocatello Police Department police report, LI#13-P01084, attached hereto and incorporated by reference.

06/14/13 -- ADDITIONAL: Also see Forensic Lab Results and emails attached hereto and incorporated by reference.

09/06/13 -- ADDITIONAL: Please see the new Forensic Lab Results previously referred to.

REQUEST NO. 2i. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

RESPONSE NO 2i: For reports and memorandum made by a police officer or investigator, please see Pocatello Police Department police report, LI#13-P01084 and officer notes located on the Evidence Disc attached hereto and incorporated by reference.

06/14/13 -- ADDITIONAL: Also see Forensic Lab Results and Pocatello Police Department Offense supplement to Report #13-P01084 by T. Marshall attached hereto and incorporated by reference.

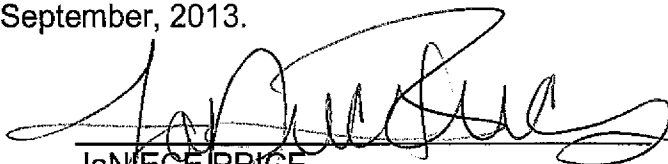
09/06/13 -- ADDITIONAL: Please see the new Forensic Lab Results previously referred to.

REQUEST NO. 2j. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: For intercepted jail conversations, please contact the Bannock County Jail.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 6th day of September, 2013.



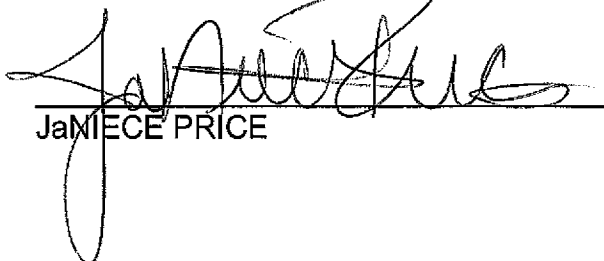
JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I **HEREBY CERTIFY** That on this 6th day of September, 2013, a true and correct copy of the foregoing **RESPONSE TO REQUEST FOR DISCOVERY** was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☐ hand delivery
☒ fax - 236-7048



JANIECE PRICE

Jeanne Hobson

From: Jeanne Hobson
Sent: Thursday, August 29, 2013 02:20 PM
To: Kent Reynolds
Subject: State v. Aman Gas -- Latest Lab Results
Attachments: 2013-08-27 Lab Results.pdf

Dear Kent,

We have received the latest lab results concerning DNA with the exclusion of the consensual partner. This lab report is attached hereto.

Sincerely,

Jeanne

Office Coordinator/Lead Legal Secretary
Bannock County Prosecutor's Office
P O Box "P"
Pocatello, ID 83205-0050
208-236-7280 - Main
208-236-7283 - Desk
208-236-7288 - Fax

Jeanne Hobson

From: Kent Reynolds
To: Jeanne Hobson
Sent: Thursday, August 29, 2013 02:20 PM
Subject: Read: State v. Aman Gas -- Latest Lab Results

Your message

To: Kent Reynolds
Subject: State v. Aman Gas -- Latest Lab Results
Sent: 8/29/2013 02:20 PM

was read on 8/29/2013 02:20 PM.

* * * Communication Result Report (Sep. 6. 2013 1:25PM) * * *

1)
2)

Date/Time: Sep. 6. 2013 1:24PM

File No.	Mode	Destination	Pg(s)	Result	Page Not Sent
5010	Memory TX	G3-AT :PUBLIC DEFENDER	P. 9	OK	

Reason for error

E. 1) Hang up or line fail

E. 3) No answer

E. 5) Exceeded max. E-mail size

E. 2) Busy

E. 4) No facsimile connection

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JaNECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN FARAH GAS,

Defendant.

CASE NO. CR-13-864-FE

SECOND SUPPLEMENTAL
RESPONSE TO
DISCOVERY REQUEST

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the
Defendant.

COMES NOW, the State of Idaho, by and through JaNECE PRICE,

Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to

Defendant's Request for Discovery as follows:

REQUEST NO. 1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have First Discovery Motion participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:


- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

SECOND SUPPLEMENTAL RESPONSE TO DISCOVERY REQUEST - Page 1

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2013 SEP 11 PM 4:08
BY 
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

)
) CASE NO. CR-2013-864-FE-A
)
) MOTION FOR PAYMENT OF
) EXPERT WITNESSES FEES FROM
) DISTRICT COURT FUNDS
)
)
)
)
)

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V. Reynolds, and pursuant to Rule 16, and moves this Court for its order authorizing payment of expert witnesses fees on the grounds and for the reasons that Defendant intends to retain an expert witness in the area of DNA testing, analysis and interpretation to testify on behalf of the Defendant. Defendant has not made a determination as to the person who will be retained.

Defendant further moves this court for its order to have all expert witness work deemed work product and not discoverable, unless or until the Defendant decides to declare the person an

Motion for Payment of Expert Witness Fees from District Court Funds

Page 1

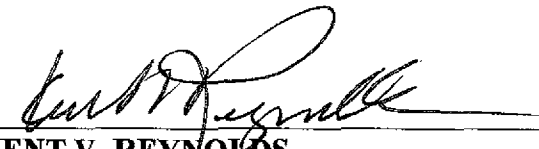
expert witness for trial at which time Defendant will comply with Rule 16, I.C.R.

DATED this 10 day of September, 2013.


KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10 day of September, 2013, I served a true and correct copy of the foregoing **MOTION FOR PAYMENT OF EXPERT WITNESSES FEES FROM DISTRICT COURT FUNDS** to the Bannock County Prosecutor by hand-delivery to the Bannock County Prosecutor in-box in Room 220 of the Bannock County Courthouse, Pocatello, Idaho.


KENT V. REYNOLDS
Deputy Public Defender

COURT MINUTES

CR-2013-0000864-FE

2013 SEP 18 AM 9:39

State of Idaho vs. Aman F Gas

Hearing type: Motion

Hearing date: 9/16/2013

Time: 12:26 pm

Judge: Stephen S Dunn

Courtroom: Room #301, Third Floor

Court reporter: Sheri Turner

Minutes Clerk: Karla Holm

Tape Number:

Defense Attorney: Kent Reynolds

Prosecutor: Ryan Godfrey

-
- | | |
|------|--|
| 1226 | Motion; Reynolds |
| 1227 | Court identify who expert is and estimate of costs |
| 1228 | Reynolds; |
| 1229 | Reynolds regarding Def letter requesting trial within 30 days; possible private counsel to b retained; |
| 1230 | Court; granted in that Def given time |

2013 SEP 18 AM 9:39

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN GAS,

Defendant.

MINUTE ENTRY & ORDER

On September 16, 2013, the above named Defendant appeared in Court with his counsel, Kent V. Reynolds, for a hearing on Defendant's Motion for Payment of Expert Witnesses Fees from District Court Funds. Ryan Godfrey, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheri Turner performed as Court Reporter for this proceeding.

The Court heard argument from counsel for the Defendant regarding the Motion.

The Court advised counsel for the Defendant to identify who the expert is to be and the estimated costs to the Court under seal. The Court will then take the matter under advisement.

DATED September 17, 2013.



STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18 day of Sept, 2013, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

- ☐ U.S. Mail
- ☒ Email
- ☐ Hand Deliver
- ☐ Facsimile

Kent V. Reynolds
Bannock County Public Defender

- ☐ U.S. Mail
- ☒ Email
- ☐ Hand Deliver
- ☐ Facsimile

DATED this 18 day of Sept, 2013.
[Signature]
Deputy Clerk

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2013 SEP 20 PM 3:52

BY 
DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

vs.

AMAN GAS,

Defendant.

CASE NO. CR-2013-864-FE

SECOND DISCOVERY MOTION

**TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205**

Comes now the Defendant, Aman Gas, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Please provide copies of the face book messages allegedly sent by the alleged victim to others on the night of the alleged occurrence along with and response communications or messages.

**Second Discovery Motion
Page - 1**

2. Please provide the identity of the convenience store where the alleged victim and her friend stopped on the night of the alleged occurrence.
3. Please provide any and all information regarding the credit/debit card that was used by the alleged victim and her friend to make a purchase of alcoholic beverages at the convenience store.
4. Please identify the name, address and telephone number for the alleged victim's sexual partners for the last three years.
5. Please provide the identity of any telephone or cell phone carriers for the following individuals along with the telephone/cell phone numbers:

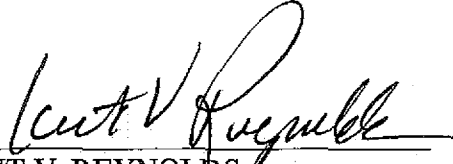
Richard Sammons

Andrea Ogalla

Abhishek Dwivedi

Raushelle Goodin-Guzman

Dated this 20 day of September, 2013.

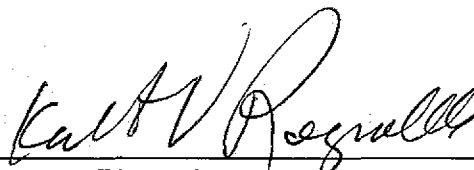

KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20 day of September, 2013, I served a true and correct copy of the **SECOND DISCOVERY MOTION** upon the parties below as follows:

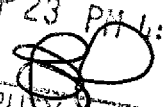
Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail Bannock County
☐ Facsimile



KENT V. REYNOLDS
Deputy Public Defender

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2013 SEP 23 PM 4:30
BY 
DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

vs.

AMAN GAS,

Defendant.

CASE NO. CR-2013-864-FE

THIRD DISCOVERY MOTION

**TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205**

Comes now the Defendant, Aman Gas, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. All DNA laboratory REPORTS.
2. All DNA laboratory NOTES, from evidence intake to disposition.
3. All forensic biology laboratory REPORTS, including presumptive testing and serology.

Third Discovery Motion
Page - 1

4. All forensic biology NOTES, including presumptive testing and serology, from evidence intake to disposition.
 - a) If any photographs were taken, please provide digital files or color scans or prints of film images.
5. List of any abbreviations and/or acronyms used in laboratory notes.
6. Any and all other items contained in the case file.
7. STR data (including Y-STR data), if relevant
 - a) CD or other electronic media containing the following electronic files:
 - i) Sample files ("raw data") for ALL runs relevant to the case. For current work, these files have a suffix of .fsa. For older cases, the files will have no suffix.
 - ii) GeneMapper® projects for ALL runs relevant to the case. For current work, these files have a suffix of .ser. For older cases, please provide GeneScan® and GenoTyper® projects.
 - iii) All matrices (if relevant) used in the case, included in the folder with the relevant run(s). The CD or other electronic media should be clearly labeled with case information and initialed by the analyst. ***Please provide the original CD or electronic media generated by the laboratory. Copies made by any intermediary party are not acceptable as the data may fail to copy or become corrupted.***
 - b) Print-out of GenoTyper® or GeneMapper® data. Original color print-outs preferred; B&W copies are acceptable if they are good quality and legible. Any


handwritten notes on the electropherograms should be legible

- c) Documentation of the injection volume(s) and injection time(s) for each sample, including reinjections.
8. DNA quantitation data.
- printouts of electronic quantitation data.
9. Legacy systems, if relevant.
- a) Slot blots
 - duplicate photos or high quality scans of slot blots
 - b) AmpliType PM+DQA1 data
 - duplicate photos or high quality scans of dot blots
 - d) D1S80 data
 - duplicate lumigraphs of data
 - e) RFLP data
 - duplicate autoradiographs of data
10. Current forensic biology and DNA protocols, including *interpretation guidelines* and *database references*. Electronic version preferred.
11. Summary of proficiency test results from each analyst who worked on the case.
12. Copy of any logs that document unexpected results. This would include contamination events, sample switches, and any other detected errors. Such logs might be variously termed “unexpected results,” “corrective action,” “contamination,” “extraneous DNA” or other similar terms. If a central log is not maintained, please provide a statement to that effect.
13. Copy of all communications and communication logs between all analysts and any other

parties, including but not limited to attorneys, investigators, and other analysts.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 23 day of September, 2013.




KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that on the 23 day of September, 2013, I served a true and correct copy of the **THIRD DISCOVERY MOTION** upon the parties below as follows:

Bannock County	<input checked="" type="checkbox"/>	Hand Deliver
Prosecuting Attorney	<input type="checkbox"/>	First Class Mail
Prosecutor's in-box, Room 220	<input type="checkbox"/>	Certified Mail Bannock County
Courthouse	<input type="checkbox"/>	Facsimile
Pocatello, Idaho 83205		



KENT V. REYNOLDS
Deputy Public Defender

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2013 SEP 24 PM 3:59
BY 
DEPUTY CLERK

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
AMAN FARAH GAS,)
)
Defendant.)
_____)

CASE NO. CR-13-864-FE 

SECOND
RESPONSE TO SECOND
DISCOVERY MOTION

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the
Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and states the
following concerning Defendant's Second Discovery Motion filed on September 20, 2013,
as follows:

**The State previously received the same Second Discovery Motion filed
by Defense counsel on March 5, 2013, which was filed with the court on March 4,
2013. The State responded to the Second Discovery Motion on March 11, 2013
which was filed with the Court on March 11, 2013.**

The State reserves the right to supplement this response upon receipt of such evidence.

DATED this 24th day of September, 2013.


JaNIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

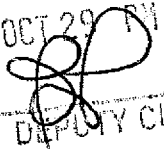
I HEREBY CERTIFY That on this 24th day of September, 2013, a true and correct copy of the foregoing SECOND RESPONSE SECOND DISCOVERY MOTION was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile


JaNIECE PRICE

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2013 OCT 29 PM 4:29
BY  DEPUTY CLERK

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN FARAH GAS,

Defendant.

CASE NO. CR-13-864-FE 

RESPONSE TO THIRD
DISCOVERY REQUEST

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the
Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Third Request for Discovery as follows:

REQUEST NO. 1. All DNA laboratory REPORTS

**RESPONSE NO. 1: Copies of DNA laboratory reports are located on the LAB
EVIDENCE DISC attached hereto and incorporated by reference.**

REQUEST NO.2. All DNA laboratory NOTES, from evidence intake to disposition.

RESPONSE NO. 2: Copies of DNA laboratory notes are located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 3. All forensic laboratory REPORTS, including presumptive testing and serology.

RESPONSE NO. 3: Copies of all forensic laboratory reports, including presumptive testing and serology are located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 4. All forensic laboratory NOTES, including presumptive testing and serology, from evidence intake to disposition.

RESPONSE NO. 4: Copies of all forensic laboratory notes, including presumptive testing and serology, are located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 5. List of any abbreviations and/or acronyms used in the laboratory notes.

RESPONSE NO. 5: A list of abbreviations/acronyms used in laboratory notes is located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 6. Any and all other items contained in the case file.

RESPONSE NO 6: Copies of other items contained in the case file are located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 7. STR data (including Y-STR data), if relevant.

RESPONSE NO 7: STR/Y-STR data are located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 8. DNA quantitation data.

RESPONSE NO 8: DNA quantitation data is located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 9. Legacy systems, if relevant.

RESPONSE NO 9: Legacy systems are not relevant.

REQUEST NO. 10. Current forensic biology and DNA protocols, including interpretations guidelines and database references.

RESPONSE NO 10: Forensic biology and DNA protocols, including interpretations guidelines and database, are located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 11. Summary of proficiency test results from each analyst who worked on the case.

RESPONSE NO 11: Summary of proficiency test results from each analyst who worked on the case is located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 12. Copy of any logs that document unexpected results.

RESPONSE NO 12: There are no logs of unexpected results.

REQUEST NO. 13. Copy of all communications and communication logs between all analysts and any other parties.

RESPONSE NO 13: Copy of all communications and communication logs between all analysts and any other parties is located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

The following is a snapshot of the items located on the LAB EVIDENCE

DISC:

DVD RW Drive (D:) GAS LAB DISC | DVD RW Drive (D:) GAS LAB DISC | 073113RLN_M20130247 |

Burn to disc

Files Currently on the Disc (8)

- 073113RLN_M20130247
- DNA - BIOLOGICAL INFO
- 2013-05-02 Lab Rpt with attachments
- 2013-08-27 Lab Rpt with attachments
- 2013-10-15 ISP Lab Letter re Disc
- ISP Forencis Serv. Proficiency Test Eval
- Lab=Evidence Submission Receipt Forms
- Lab=Notes and Emails

Files Currently on the Disc (13)

- 073113RLN
- 073113RLN_reinj
- 080713SEGRIN
- 082113RLN
- M20130247 Genotypes
- M20130247 Re-extraction 2 Genotypes
- M20130247 Re-Extraction 2 Table
- M20130247 Re-Extraction 2.ser
- M20130247 Re-extraction Genotypes
- M20130247 Re-Extraction Table
- M20130247 Re-Extraction.ser
- M20130247 Table
- M20130247.ser

DVD RW Drive (D:) GAS LAB DISC | DNA - BIOLOGICAL INFO |

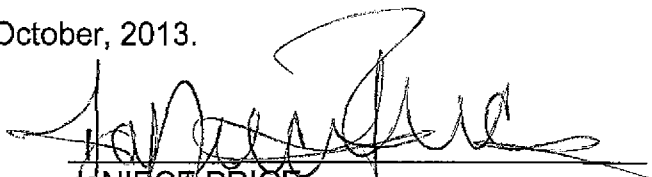
Burn to disc

Files Currently on the Disc (6)

- Biology QA Manual R15
- Biology Training Manual rev 2
- Biology_DNA_DNA DATABASE Abbreviations rev 0
- Casework Analytical methods R14
- CODIS Methods R13
- Database Analytical Methods R14

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 28th day of October, 2013.

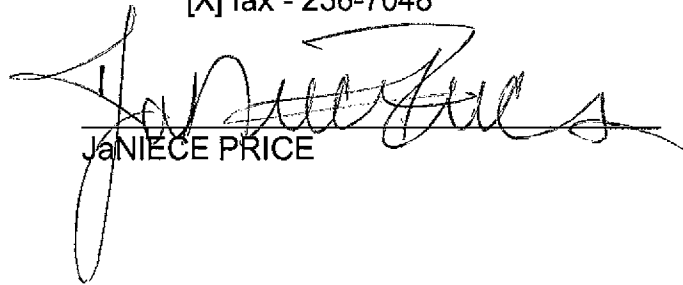

JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I **HEREBY CERTIFY** That on this 29th day of October, 2013, a true and correct copy of the foregoing **RESPONSE TO REQUEST FOR DISCOVERY** was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☐ hand delivery
☒ fax - 236-7048


JANIECE PRICE

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2013 NOV -8 PM 2:37

BY KH

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE CLERK
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK COUNTY

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN GAS,

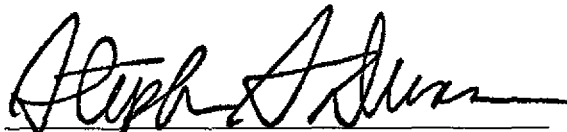
Defendant,

ORDER RESETTING JURY TRIAL
AND PRE-TRIAL

Good cause existing therefore;

IT IS HEREBY ORDERED that the JURY TRIAL in the above entitled matter be and the same is RESET before the undersigned District Judge for TUESDAY, JANUARY 21, 2014, AT THE HOUR OF 9 A.M. with a PRE-TRIAL CONFERENCE set for MONDAY, JANUARY 6, 2014 AT THE HOUR OF 4 P.M. at the Bannock County Courthouse, Pocatello, Idaho.

DATED November 8, 2013.



STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8 day of November, 2013,
I served a true and correct copy of the foregoing document upon each of the following
individuals in the manner indicated.

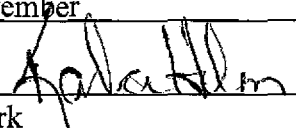
Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

DATED this 8 day of November, 2013.



Deputy Clerk

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 JAN 10 AM 11:19

Handwritten initials

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK COUNTY

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN GAS,

Defendant.

ORDER RESETTING JURY TRIAL
AND PRE-TRIAL

Good cause existing therefore;

IT IS HEREBY ORDERED that the JURY TRIAL in the above entitled matter be and the same is RESET before the undersigned District Judge for TUESDAY, MARCH 18, 2014, AT THE HOUR OF 9 A.M. with a PRE-TRIAL CONFERENCE set for MONDAY, MARCH 3, 2014 AT THE HOUR OF 4 P.M. at the Bannock County Courthouse, Pocatello, Idaho.

DATED January 10, 2014.

Handwritten signature of Stephen S. Dunn

STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the _____ day of _____, 2014, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Kent V. Reynolds

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

DATED this _____ day of _____, 2014.



Deputy Clerk

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 FEB 19 PM 4:06
BY SC
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

CASE NO. CR-2013-864-FE-A

MOTION TO SUPPRESS

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V.

Reynolds, Deputy Public Defender, and hereby moves this Court pursuant to Rule 12, Idaho Criminal Rules, for its order suppressing any all evidence seized during the body search of the Defendant wherein DNA samples were either taken or obtained in violation of the Defendant's rights against unreasonable searches and seizures as guaranteed by the United States

Constitution, Amendment 4, and/or the Idaho State Constitution, Article 1 §17. Defendant relies upon the holding in Missouri v. McNeely, ___ U.S. ___, 133 S. Ct. 1552, ___ L. Ed. 3 ___ (2013),

Motion to Suppress
Page 1


Defendant further asserts that the obtaining the DNA samples was in violation of his due process and 4th Amendment rights as the circumstances under which the DNA samples were obtained were coercive and any consent purportedly given for the taking of the samples was not voluntarily given.

Defendant gives notice of his intent to call witnesses and present testimony and evidence in support of his Motion to Suppress.

Defendant further gives notice that if the motion is deemed untimely, the failure to file the motion as required by the criminal rules was ineffective assistance of counsel and could not have been filed until after the decision in Missouri v. McNeely was issued by the United States Court.

Oral argument is requested.

DATED this 19 day of February, 2014.


KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19 day of February, 2014, I served a true and correct copy of the **MOTION TO SUPPRESS** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile



KENT V. REYNOLDS
Deputy Public Defender

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 FEB 19 PM 4:06
BY [Signature]
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

vs.

AMAN GAS,

Defendant.

CASE NO. CR-2013-864-FE

FOURTH DISCOVERY MOTION

**TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205**


Comes now the Defendant, Aman Gas, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Please identify Ms. Guzman's telephone number or numbers for the period of December 12, 2012, to the present and the name of the telephone carrier for each telephone number.

2. Please identify any and all health care providers of whatsoever nature, including but not limited to nurses, physicians, psychologists, psychiatrists, counselors, nurse practitioner, physician assistants, ob/gyn's, Ms. Guzman has seen or sought treatment from during the period of December 1, 2012 to the present.
3. Please confirm the telephone number for Abhishek Dwivedi for the period of December 1, 2012 to January 31, 2012 and the name of the cell phone carrier.
4. Please provide the full names, addresses and telephone numbers and Facebook addresses for Jake, Chris and Jason as identified in the police investigation report.
5. Please identify the Facebook address for Ms. Guzman's father.
6. Please identify the three individuals identified by Ms. Guzman, i.e. Jake, Chris and Jason, and provide their addresses and cell phone numbers and cell phone carrier's name.
7. Please identify who BJ or Vijay, Abhishek Dwivedi friend, including his name, address, telephone or cell phone number and cell phone carrier.
8. Please identify the credit or debit card number and financial institution issuer for the card used by Abhishek Dwivedi to purchase alcohol that was consumed by Ms. Guzman and Mr. Abhishek Dwivedi on January 19, 2013.
9. Please produce the PPD dispatch record/log pertaining to this alleged incident.
10. Please produce all Facebook pages, messages etc. that were referred to by Ms. Guzman, Mr. Sommers, and any others referred to in the police investigation report or in the Preliminary Hearing Transcript: including but not limited to: Ms. Guzman, Mr. Sommers, Abhishek Dwivedi, etc.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 19 day of February, 2014.

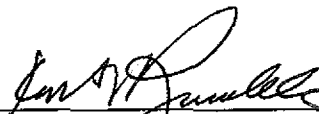

KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 19 day of February, 2014, I served a true and correct copy of the **FOURTH DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail Bannock County
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE-A
Plaintiff,)	
	)	SECOND RESPONSE TO
v.	)	DISCOVERY REQUEST
)	
AMAN GAS,)	
)	
Defendant.)	
_____)	


TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205

COMES NOW the Defendant, Aman Gas, by and through his attorney, and responds to
the States Request for Discovery as follows:


1. Photographs of the alleged victim taken during the sexual assault examination (rape).
Defendant does not have the photographs. It is believed they are in possession of the Pocatello
Police Department. Defendant does not admit that such an assault took place (rape).

Defendant reserves the right to supplement this response prior to trial.

Second Response to Discovery Request
Page 1

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 FEB 21 PM 4:10
BY 
DEPUTY CLERK

Dated this 21 day of February 2014.



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21 day of February 2014, I served a true and correct copy of the **SECOND RESPONSE TO REQUEST FOR DISCOVERY** was served upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 FEB 28 PM 4:07
BY [Signature]
DEPUTY CLERK

Defendant being advised of his rights.

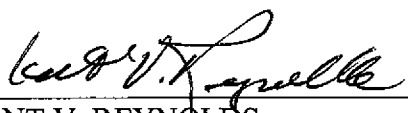
2. Further investigation there may be newly discovered additional witnesses which may testify on behalf of the Defendant. Defendant is continuing its investigation of this case and potential defenses and witnesses.

3. Discovery is not yet completed as there is additional photographs and medical records which need to be obtained. In conjunction with this motion, Defendant has filed an additional discovery requests which have not yet been answered. Defendant may need to file additional discovery as Defendant's investigation continues.

4. Other records necessary for the preparation of Defendant's defense are being requested. These include counseling records and other medical records pertaining to Ms. Guzman and her alleged injury and telephone/cell phone records.

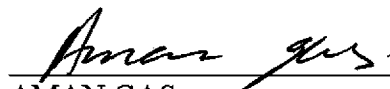
Oral argument is requested.

DATED this 28 day of February, 2014.


KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

I, Aman Gas, hereby consent to continuation of the trial on the grounds set forth above. I have previously waived my right to speedy trial and I will not be prejudiced by the continuation of the trial so that I and counsel can be fully prepared for trial.

Dated this 28 day of February, 2014.

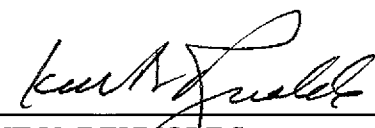

AMAN GAS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 28 day of February, 2014, I served a true and correct copy of the **MOTION TO SUPPRESS** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 FEB 21 PM 4:55
BY [Signature]
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE-A
Plaintiff,)	
	)	FIRST RESPONSE TO
v.	)	DISCOVERY REQUEST
)	
AMAN GAS,)	
)	
Defendant.)	
_____)	

TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205

COMES NOW the Defendant, Aman Gas, by and through his attorney, and responds to
the States Request for Discovery as follows:

1. Drawing of room made by either Aman Gas or Ms. Guzman produced in the
State's discovery response.
Portneuf Medical Center (PMC) records produced by the State
Photographs of the alleged victim taken at PMC
2. See response to Request No. 1.

3. See response to No. 1

4. Aman Gas

Rachelle Guzman - known to the State

Abhishek Dwivedi - known to the State

Adrian Smart -

Andrea Ogalla - known to the State

Any witnesses disclosed by the State

5. Defendant has not *made a determination regarding the retention of an expert witness to testify in this matter. Defendant will timely supplement this response prior to trial.*

6. Defendant gives notice that on the date of the alleged offense, the Defendant was at the bar, Hooligans, located in Pocatello, Idaho. People who will testify in support of the alibi are the Defendant, Adrian Smart and Andrea Ogalla. There may be other witnesses who may be called to support the alibi defense. Investigation is ongoing and additional witnesses will be disclosed upon confirmation of the person's identity.

In addition, the State is already on notice of facts that would support this alibi claim based upon the State's responses to discovery. The alleged victim indicated that the crime occurred at 11:30 P.M. on January 19, 2013, then claimed that it occurred sometime in close proximity to the time she contacted her father, at or around 3:21 A.M. on January 20, 2013. All this information is set forth in the State's discovery responses and in the Preliminary Hearing Transcript.

Defendant reserves the right to supplement this response prior to trial.

Dated this 21 day of February 2014.




KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 21 day of February 2014, I served a true and correct copy of the **FIRST RESPONSE TO REQUEST FOR DISCOVERY** was served upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205


<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAR -3 PM 4:26
BY 
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

vs.

AMAN GAS,

Defendant.

CASE NO. CR-2013-864-FE 

FIFTH DISCOVERY MOTION

**TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205**

Comes now the Defendant, Aman Gas, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Please confirm or deny that the cell phone pictures produced in the State's 1st Supplemental Response to Discovery Motion are pictures of Ms. Ogalla's cell phone, which she provided during her January 30, 2013 interview. If not, please identify the

source of the cell phone photos.


2. Please disclose whether any officer involved with the investigation of this case were ever provided any cell or telephone records for Ms. Guzman, Mr. Addi Abishek , Aman Gas, Adrian Smart, Andrea Ogalla, or any one else.

Please identify the officers (at least two) who conducted the interview with Andrea Ogalla and Aman Gas as recorded on the Evidence Disk, "Ogalla Interview." Please disclose where the interviews took place, the time of the interview, and produce all police officer notes pertaining to the interviews, if not previously produced. If produced, please identify which notes pertain to the officers who conducted the recorded interview.

4. Please identify all person who were at Andrea Ogalla's residence at the time the officers first made contact with the residents on January 20, 2013, sometime between 4:00 A.M. and 5:15 A.M.
5. Please indicate if any type of DNA samples were obtained from other persons found at the residence, and identified in the preceding request, Request No. 4.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 3 day of ^{March}~~February~~, 2014.



KENT V. REYNOLDS
Deputy Public Defender

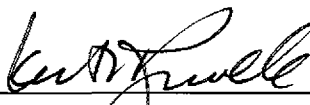
CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 8 day of ^{March}~~February~~, 2014, I served a true and

correct copy of the **FOURTH DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail Bannock County
☐ Facsimile



KENT V. REYNOLDS
Deputy Public Defender

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTOR
P.O. BOX P
POCATELLO, ID 83205-0050
TELEPHONE: (208) 236-7280
FACSIMILE: (208) 236-7288

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAR -5 PM 3:21
BY KH
DEPUTY CLERK

JaNIECE PRICE, ISB# 7161
Asst. Chief Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE
Plaintiff,)	
)	
vs.	)	OBJECTION TO
	)	DEFENDANT'S MOTION TO
AMAN FARAH GAS,	)	SUPPRESS
)	
Defendant.)	
_____)	

COMES NOW, the State of Idaho, by and through, JaNIECE PRICE,
Assistant Chief Deputy Prosecuting Attorney, and hereby objects to defendant's Motion to
Suppress filed on February 19, 2014. In support of this Objection, the State submits the
following argument.

I.C.R. 12 (b)(3) – Pretrial Motions provides that these types of motions must be
raised by counsel prior to trial. Additionally, motions pursuant to 12(b) must be filed within
28 days after the entry of plea of not guilty or 7 days before trial whichever is earlier. In
felony cases, such motions must be brought on for hearing within 14 days after filing or 48
hours before trial whichever is earlier.

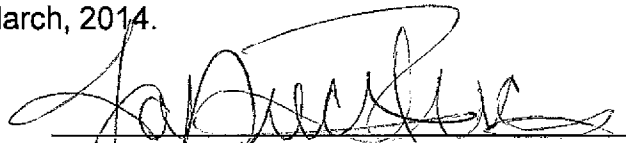
Defendant failed to file its Motion to Suppress and Notice of Hearing within the
time frames set forth in I.C.R. 12(b) and the guidelines of this Court's Minute Entry and

Order on Arraignment and Order Setting Criminal Jury Trial. A failure by the Defendant to raise defenses or objections or to make requests which must be made prior to trial as dictated by I.C.R., or at the time set by the court pursuant to subsection(d), or prior to any extension thereof made by the court, shall constitute a waiver thereof of those defenses or objections.

There has been no showing of good cause or excusable neglect by the Defendant concerning this Motion to Suppress and relief should not be given by this Court. *State v. Alanis* provides that a trial court abuses its discretion in considering a motion to suppress the evidence when the motion is not filed timely and when neither good cause nor excusable neglect has been shown. 109 Idaho 884, (1985).

The State requests that the defense's motion be denied on the aforementioned bases.

DATED this 5th day of March, 2014.

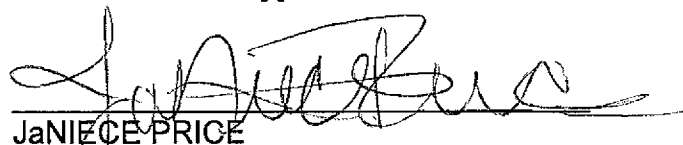

JANIECE PRICE
Assistant Chief Deputy Prosecutor

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 5th day of March, 2014, a true and correct copy of the foregoing OBJECTION TO DEFENDANT'S MOTION TO SUPPRESS was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile


JANIECE PRICE

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 MAR 11 AM 9:19

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK COUNTY

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN GAS,

Defendant,

ORDER RESETTING JURY TRIAL
AND PRE-TRIAL

Good cause existing therefore;

IT IS HEREBY ORDERED that the JURY TRIAL in the above entitled matter be and the same is RESET before the undersigned District Judge for TUESDAY, MAY 20, 2014, AT THE HOUR OF 9 A.M. with a PRE-TRIAL CONFERENCE set for MONDAY, MAY 5, 2014 AT THE HOUR OF 4 P.M. at the Bannock County Courthouse, Pocatello, Idaho.

DATED March 11, 2014.



STEPHEN S. DUNN
District Judge

Register No. CR-2013-00864-FE

ORDER

Page 1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the _____ day of _____, 2014, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Kent V. Reynolds

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

DATED this _____ day of _____, 2014.

Deputy Clerk

RANDALL D. SCHULTHIES
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 MAR 20 AM 5:06

BY 
DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO)

Plaintiff)

v.)

AMAN GAS,)

Defendant.)

Case No. CR-2013-00864-FE-A

NOTICE OF HEARING

Wednesday, April 9, 2014
at 03:00 p.m.

PLEASE TAKE NOTICE that the undersigned will bring a MOTION TO
SUPPRESS before the Honorable Stephen S. Dunn, on Wednesday, April 09, 2014,
at 03:00 p.m.

DATED this 17 day of March, 2014.


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17 day of March, 2014, I served a true and correct copy of the **NOTICE OF HEARING** was served upon the parties below as follows:

Bannock County Prosecutors
Prosecutor's in-box, room 220
Bannock County Courthouse
Pocatello, ID 83205

☒ Hand Deliver



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAR 21 PM 4:05
BY MA
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

CASE NO. CR-2013-864-FE **A**

SIXTH DISCOVERY MOTION

AMAN GAS,

Defendant.


Comes now the Defendant, Aman Gas, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

- Sixth Discovery Motion**
Page - 1

2. Please produce the electronic data and allele chart for the profile that is asserted as the source of the contamination event on the initial extraction of the 1st penile swab (2B).

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 21 day of March, 2014.



KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21 day of March, 2014, I served a true and correct copy of the **SIXTH DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail Bannock County
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Deputy Public Defender

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO, Plaintiff

Citation #

CA2013-864FE

vs.

Agency: ☐ Sheriff ☒ Pocatello ☐ Chubbuck
☐ ISP Other: _____

AMAN GAS
Defendant
5-3-80 3799
DOB SSN/DL #
425 Hyde, Roc
Address

NO CONTACT ORDER (NCO)
IDAHO CRIMINAL RULE 46.2

YOU HAVE BEEN CHARGED WITH VIOLATING THE FOLLOWING IDAHO CODE SECTION(S):

- ☐ 18-901 Assault ☐ 18-903 Battery ☐ 39-6312 Violation of Protection Order
☐ 18-918 Domestic Assault or Battery ☐ 18-7905 Stalking ☐ Other _____

against Raushelle Goodin Guzman, the Alleged Victim: DOB [REDACTED]
ADDRESS 145 Hillcrest #38, Am Falls, DLN 4301, PHONE _____
(must have 2 identifiers for ILETS entry), the ALLEGED VICTIM:
And 3132 Neeley Loop, Am Falls

THIS COURT, having personal and subject matter jurisdiction, **HEREBY ORDERS THAT YOU, THE DEFENDANT, ARE TO HAVE NO CONTACT DIRECTLY OR INDIRECTLY WITH THE ALLEGED VICTIM.** Do not knowingly follow, communicate in any way or by any means (including another person); nor harass or otherwise make, attempt to make, contact with the victim(s). Do not knowingly go, or remain, within 300 yards of the alleged victim's person, property, residence, workplace or school.

IF YOU RESIDE WITH THE ALLEGED VICTIM THEN YOU ARE HEREBY ORDERED OUT OF THE RESIDENCE, you must contact an appropriate law enforcement agency for an officer to accompany you while you remove any necessary personal belongings, including any tools required for your work. The agency will schedule the removal of these items within 48 hours of contact, if at all possible. If disputed, the officer will make a preliminary determination as to what are necessary personal belongings; and in addition, may restrict or reschedule the time spent on the premises.

VIOLATION OF THIS ORDER IS A SEPARATE CRIME UNDER Idaho Code 18-920 for which no bail will be set until you appear before a judge. It is subject to a penalty of up to **ONE-YEAR IN JAIL** and up to a **\$1,000 FINE**. **ONLY A JUDGE CAN MODIFY THIS ORDER.** A 3rd conviction for violation of a no contact order within five (5) years is a felony and is punishable by a fine not exceeding \$5,000 or imprisonment in the state prison not to exceed five years or both.

When more than one domestic violence protection order is in place, the most restrictive provision will control any conflicting terms of any other civil or criminal protection order. {ICR 46.2(c)}

This order may subject you to Federal prosecution under 18 U.S. Code § 922 if you possess, receive, or transport a firearm.

A copy of this Order shall immediately be sent to the appropriate law enforcement agency of the originating citation or charge. **THE ORDER SHALL BE ENTERED INTO THE IDAHO LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM.**

TERMINATION: Unless otherwise modified, terminated or extended by the court, the NCO will remain in effect until 11:59 pm on the _____ day _____ of 20____.

Other special conditions: _____

IT IS SO ORDERED this 21st day of March, 2014.

Steph [Signature]
Judge

RECEIPT BY DEFENDANT

I ACKNOWLEDGE that I have read/received this order. DEFENDANT signature Aman Gas 3/26/14


PERSONAL SERVICE

I certify that I received this NCO and served it on the above named individual on 3/26/14 4:49pm
Agency: Court arraignments Officer: N. Pineda Date _____ Time _____
Badge number: n/a
Date entered into ILETS _____ 20____ by _____; Date removed _____, 20____

by _____ Return Yellow Copy to Court Services when removed from ILETS. 195 of 1217

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAR 31 PM 4:36
BY 
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs.)
)
 AMAN FARAH GAS,)
)
 Defendant.)
 _____)

CASE NO. CR-2013-864-FE 

RESPONSE TO FIFTH
DISCOVERY REQUEST

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the
Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Fifth Request for Discovery as follows:

REQUEST NO. 1. Please confirm or deny that the cell phone pictures
produced in the State's 1st Supplemental Response to Discovery Motion are pictures of
Ms. Ogalla's cell phone, which she provided during her January 30, 2013 interview. If
not, please identify the source of the cell phone photos

RESPONSE NO. 1: Photographs labeled: Picture 086.jpg, Picture 087.jpg,

and Picture 088.jpg are the pictures taken by Officer Shutes the night of the incident. According to the report from Ofc. Shutes, these photos were taken of Richard Sammons' phone. The file named "fb messages" are screen shots of Ogalla's cell phone that Ogalla brought into the PPD at a later date and time.

REQUEST NO.2. Please disclose whether any officer involved with the investigation of this case were ever provided any cell or telephone records for Ms. Guzman, Mr. Addi Abishek, Aman Gas, Adrian Smart, Andrea Ogalla, or anyone else.

RESPONSE NO. 2: File titled "phone call history" was provided to Detective Marshall by Andrea Ogalla at the same time that the cell Facebook records were brought in.

REQUEST NO. 3. Please identify the officers (at least two) who conducted the interview with Andrea Ogalla and Aman Gas as recorded on the Evidence Disk, "Ogalla Interview". Please disclosed where the interviews took place, the time of the interview, and produce all police officer notes pertaining to the interviews, if not previously produced. If produced, please identify which notes pertain to the officers who conducted the recorded interview.

RESPONSE NO. 3: The file titled "Ogalla.wav" is a recording of the interview of Aman Gas and Andrea Ogalla by Ofc. Shutes and Sgt. Buck. This interview occurred inside the basement apartment of 425 Hyde, after officers arrived on scene. Ofc. Shutes arrived on scene at 0355 hours and Sgt. Buck arrived on scene at 0401 hours. All notes from interviews by Detective Marshall are contained in the file titled "Interview notes."

REQUEST NO. 4. Please identify all persons who were at Andrea Ogalla's residence at the time the officers first made contact with the residents on January 20, 2013, sometime between 4:00 am and 5:15 am.

RESPONSE NO. 4: Upon reviewing officers' reports and the Ogalla interview, the individuals that were on scene at the first officer contact were Richard Sammons, Rachelle Goodin-Guzman, Abhishek Dwivedi, Andrea Ogalla,

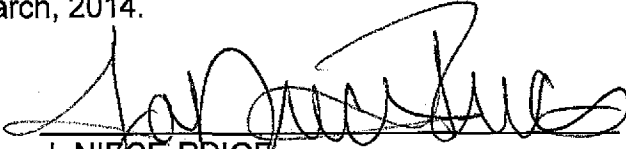
Aman Gas, and Adrian Smart.

REQUEST NO. 5. Please indicate if any type of DNA samples were obtained from other persons found at the residence, and identified in the preceding request, Request No. 4.

RESPONSE NO. 5: DNA samples and/or buccal swabs were obtained from Aman Gas, Rachelle Goodin-Guzman and Abhishek Dwivedi.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 31st day of March, 2014.

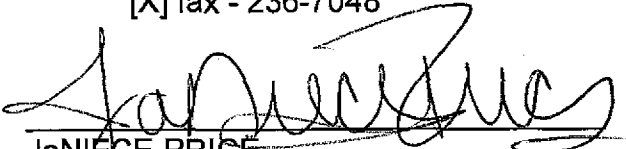

JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 31st day of March, 2014, a true and correct copy of the foregoing FIFTH RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☐ hand delivery
☒ fax - 236-7048


JANIECE PRICE

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 APR 10 PM 4:12
BY KJP
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE
Plaintiff,)	
)	
vs.	)	RESPONSE TO FOURTH
	)	DISCOVERY REQUEST
AMAN FARAH GAS,)	
)	
Defendant.)	
_____)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Fifth Request for Discovery as follows:

REQUEST NO. 1. Please identify Ms. Guzman's telephone number or numbers for the period of December 12, 2012, to the present and the name of the telephone carrier for each telephone number.

RESPONSE NO. 1: The state objects to this request as it is overly broad information that should remain private and protected for the safety and welfare of the victim.

RESPONSE NO. 7: According to Victim, Vijay is an acquaintance of Abhishek Dwivedi. Defendant does not now Vijay's full name or contact information.

REQUEST NO. 8. Please identify the credit or debit card number and financial institution issuer for the card used by Abhishek Dwivedi to purchase alcohol that was consumed by Ms. Guzman and Mr. Abhishek Dwivedi on January 19, 2013.

RESPONSE NO. 8: The state objects to this request as it is overly broad, unduly burdensome, irrelevant and private information under rule 16.

REQUEST NO. 9. Please produce the PPD dispatch record/log pertaining to this alleged incident.

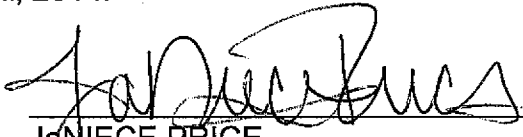
RESPONSE NO. 9: This information was previously provided.

REQUEST NO. 10. Please produce all Facebook pages, messages etc. that were referred to by Ms. Guzman, Mr. Sommers, and any others referred to in the police investigation report or in the Preliminary Hearing Transcript: including but not limited to: Ms. Guzman, Mr. Sommers, Abhishek Dwivedi, etc.

RESPONSE NO. 10: This information was previously provided.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 9th day of April, 2014.

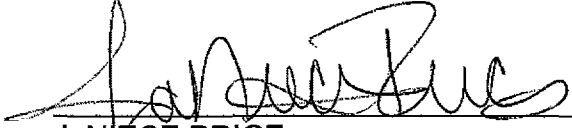

JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 9th day of April, 2014, a true and correct copy of the foregoing FOURTH RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

[] mail -
postage prepaid
☒ hand delivery
[] fax - 236-7048



Janiece Price

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 APR 11 PM 12:07
BY KH
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN GAS,

Defendant.

MINUTE ENTRY & ORDER

On April 9, 2014, the above named Defendant appeared in Court with his counsel, Kent V. Reynolds, for a hearing on Defendant's Motion to Suppress. JaNiece Price, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheri Nothelphim performed as Court Reporter for this proceeding.

At the outset, the State objected to the Defendant's Motion to Suppress and provided argument. The Court also heard argument from counsel for the Defendant.

The Court denied the State's objection to the Motion for the reasons stated on the record in open court.

Defendant's Exhibit 1, recording of conversation of Defendant and police officers during interview break, transport to and from hospital and conversation of Defendant and medical staff during examination at hospital, and Defendant's Exhibit 2, recording of interview of Defendant at police station, were marked, offered and admitted into evidence.

State's witness Pocatello Police Detective Tracy Marshall was called, sworn and testified.

State Exhibit A, adults rights from signed by the Defendant, and State's Exhibit B, consent to search form signed by the Defendant, were offered and admitted into evidence.

State rests.

The Defendant was called, sworn and testified.

Defense rests.

The Court requested additional briefing. The Defendant's brief shall be due no later than April 18, 2014. The State's response brief shall be due no later than April 25, 2014. The Court will then take this matter under advisement and a written decision shall be issued.

DATED April 11, 2014.



STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11 day of April, 2014, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

DATED this 11 day of April, 2014.
Mark Helm
Deputy Clerk

COURT MINUTES

CR-2013-0000864-FE

State of Idaho vs. Aman F Gas

Hearing type: Motion to Suppress

Hearing date: 4/9/2014

Time: 3:20 pm

Judge: Stephen S Dunn

Courtroom: Room #301, Third Floor

Court reporter: Sheri Nothelphim

Minutes Clerk: Karla Holm

Tape Number:

Defense Attorney: Kent Reynolds

Prosecutor: JaNiece Price

320 Def Motion to Suppress;
321 State Objection to Motion due to timeliness argument
322 Reynolds argument;
323 Court; deny objection;
327 Reynolds clarification of issue;
329 Stipulation of parties to allow witness to remain in courtroom;
330 State stipulated facts
335 Reynolds Gas interview at PPD and other disc recording of "smoke break" and
transport to PMC and back to PPD and during examination at hospital;
Defendant's Exhibits 1 and 2; given to State to verify and return to the Court;
342 States witness Tracy Marshall called sworn and testified; parties stipulated to

training and background and position;

359 State's Exhibit A, Adult's right form signed by Aman Gas, offered and admitted

402 State's Exhibit B, consent to search form signed by Aman Gas, offered and
admitted

411 Reynolds cross examination

428 State re-direct examination

435 Witness excused;

436 Court regarding other witnesses' testimony; Reynolds; stipulation of facts on
transport from home to PPD submitted to Court by 04/18/14;

439 Defendant called sworn and testified

443 State cross examination

446 Reynolds re-direct

446 Witness excused; Defense rest; State no rebuttal witnesses;

447 Matter submitted; request briefing; Def brief by 04/18/14; State response by
04/25/14; then under advisement and decision shall be issued;

449 State ; Court

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 APR 14 PM 4:04
BY KH
DEPUTY CLERK

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE
Plaintiff,)	
)	
vs.	)	RESPONSE TO SIXTH
	)	DISCOVERY REQUEST
AMAN FARAH GAS,)	
)	
Defendant.)	
_____)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Fifth Request for Discovery as follows:

REQUEST NO. 1. Please produce copies of the photographs taken during
the purported sexual assault examination conducted on or about January 20, 2013, at
the Portneuf Medical Center.

**RESPONSE NO. 1: Upon disclosure of an expert, the State will make this
evidence available for defendant.**

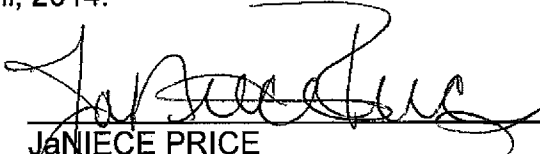
Dunn

REQUEST NO.2. Please produce the electronic data and allele chart for the profile that is asserted as the source of the contamination event on the initial extraction of the 1st penile swab (2B).

RESPONSE NO. 2: Please refer to enclosed form M20130247, M20130897, and enclosed data disc.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 11th day of April, 2014.

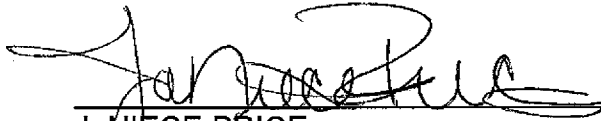

JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I **HEREBY CERTIFY** That on this 11th day of April, 2014, a true and correct copy of the foregoing SIXTH RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

[] mail -
postage prepaid
☒ hand delivery
☒ fax - 236-7048


JANIECE PRICE

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 APR 16 PM 3:02
BY KJA
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-13-864-FE-A
Plaintiff,)	
	)	THIRD SUPPLEMENTAL
vs.	)	RESPONSE TO
	)	DISCOVERY REQUEST
AMAN FARAH GAS,)	
)	
Defendant.)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Request for Discovery as follows:

REQUEST NO. 1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/ or others who have First Discovery Motion participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

Donn

RESPONSE NO. 1a & b: None known at this time.

REQUEST NO.2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

REQUEST NO. 2a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: For statements made by the defendant, please refer to Pocatello Police Department police report, LI#13-P01084 located on the Evidence Disc and defendant's recorded interviews two on the Evidence Disc and one on a DVD which are attached hereto and incorporated by reference.

06/14/13 -- ADDITIONAL: Also see Pocatello Police Department supplement to Offense Report #13-P01084 by T. Marshall attached hereto and incorporated by reference

04/15/14 -- ADDITIONAL: Aman Gas Transport DVD

REQUEST NO. 2b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There are no known co-defendants.

REQUEST NO. 2c. Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: The defendant's criminal history located on the Evidence CD attached hereto and incorporated by reference.

REQUEST NO. 2d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting

Attorney has access, or are intended for use for evidence at the Preliminary Hearing and/or trial, or obtained from the Defendant.

RESPONSE NO 2d: Evidence which may be introduced at trial is as follows: interviews of Gas and Ogolla on DVDs and ...

911 call	gas hipaa form	officer browns notes
2013-01-23 REPORT 13-P01084	gas medical records	officer notes
130120_001 Ofc Buck w Gas	Goodin Guzman Hyde St	Ogolla
130120_002 Ofc Buck w Gas	Goodin Guzman PMC 1	Picture 001
adult rights form	Goodin Guzman PMC 2 and Dwivedi PMC	Picture 002
consent to search	Goodin Guzman PMC 3	Picture 086
criminal complaint	guzman hipaa form	Picture 087
discharge instructions	guzman medical records	Picture 088
Gas Criminal History	interview notes	sketch

06/14/2013 -- ADDITIONAL

- 2013-05-10 Lab Results
- 2013-05-31 Emails Prosecutor's office with Forensic Lab
- 2013-06-03 13-P01084 Marshall Supplement
- 2013-06-12 T. Marshall email re DNA on consensual partner
- fb messages
- phone call history

09/06/2013 -- ADDITIONAL: The State provided additional lab results to defense counsel via email, verification of which is attached hereto and incorporated herein.

04/15/14 -- Aman Gas Transport DVD

REQUEST NO. 2e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting First Discovery Motion Attorney as access, or are intended for use by the Prosecuting Attorney as evidence at the Preliminary Hearing and/or at trial, or obtained from the Defendant. J.

RESPONSE NO 2e: The following books, papers, documents, photographs,

tangible objects, buildings or places are either attached hereto and incorporated by reference: interviews of Gas and Ogolla on DVDs and ...

911 call	gas hipaa form	officer browns notes
2013-01-23 REPORT 13-P01084	gas medical records	officer notes
130120_001 Ofc Buck w Gas	Goodin Guzman Hyde St	Ogolla
130120_002 Ofc Buck w Gas	Goodin Guzman PMC1	Picture 001
adult rights form	Goodin Guzman PMC 2 and Dwivedi PMC	Picture 002
consent to search	Goodin Guzman PMC 3	Picture 086
criminal complaint	guzman hipaa form	Picture 087
discharge instructions	guzman medical records	Picture 088
Gas Criminal History	interview notes	sketch

06/14/2013 -- ADDITIONAL:

- 2013-05-10 Lab Results
- 2013-05-31 Emails Prosecutor's office with Forensic Lab
- 2013-06-03 13-P01084 Marshall Supplement
- 2013-06-12 T. Marshall email re DNA on consensual partner
- fb messages
- phone call history

09/06/2013 -- ADDITIONAL: The State provided additional lab results to defense counsel via email, verification of which is attached hereto and incorporated herein.

04/15/14 – Aman Gas Transport DVD

REQUEST NO. 2f Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO 2f: For physical/mental examinations, scientific tests or

experiments pertaining to this matter, please see previous responses.

REQUEST NO. 2g. Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the Preliminary Hearing and/or trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following persons may be called to testify at hearing or trial in this matter:

- Raushelle Goodin Guzman, 145 Hillcrest #38, Af, 269-0498 Msg
- Andrea Ogolla, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854
- Monique Hamblin, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854
- Richard Sammons, 3132 Neeley, Af, 269-0498
- Abhishek Dwivedi, 1222 Freeman Ln #139, Pocatello, 240-7736
- Ann Wilcox RN, PMC
- Curtis Sandy MD, PMC
- Gina Sterner RN, PMC
- Tracy Marshall, PPD
- William Brown, PPD
- Matthew Shutes, PPD
- Tarl Lambson, PPD
- Justin Buck, PPD
- Jeffrey Eldridge, PPD

06/14/2013 -- ADDITIONAL

- Jamie Femreite, ISP Forensic Lab - Meridian

09/06/2013 -- ADDITIONAL

- Rylene L. Nowlin, ISP Forensic Lab - Meridian

At the present time, to the best knowledge of the plaintiff, only the aforementioned individuals with an "*" before their name have a record of felony convictions which are attached hereto and incorporated by reference.

REQUEST NO. 2h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO 2h: For statements made by witnesses, please see Pocatello Police Department police report, LI#13-P01084, attached hereto and incorporated by reference.

06/14/13 -- ADDITIONAL: Also see Forensic Lab Results and emails attached hereto and incorporated by reference.

09/06/13 -- ADDITIONAL: Please see the new Forensic Lab Results previously referred to.

REQUEST NO. 2i. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

RESPONSE NO 2i: For reports and memorandum made by a police officer or investigator, please see Pocatello Police Department police report, LI#13-P01084 and officer notes located on the Evidence Disc attached hereto and incorporated by reference.

06/14/13 -- ADDITIONAL: Also see Forensic Lab Results and Pocatello Police Department Offense supplement to Report #13-P01084 by T. Marshall attached hereto and incorporated by reference.

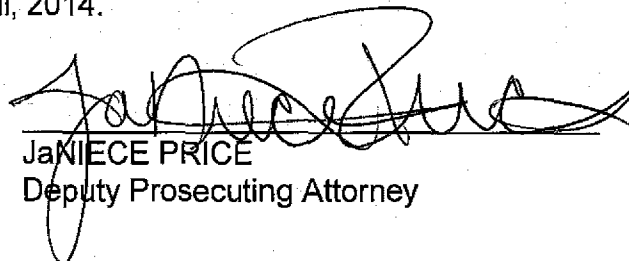
09/06/13 -- ADDITIONAL: Please see the new Forensic Lab Results previously referred to.

REQUEST NO. 2j. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: For intercepted jail conversations, please contact the Bannock County Jail.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 15th day of April, 2014.

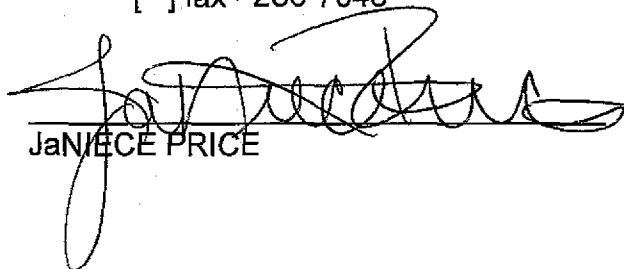

JaNIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 15th day of April, 2014, a true and correct copy of the foregoing SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ fax - 236-7048


JaNIECE PRICE

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE-A
Plaintiff,)	
	)	THIRD RESPONSE TO
v.	)	DISCOVERY REQUEST
)	
AMAN GAS,)	
)	
Defendant.)	
_____)	

TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205

COMES NOW the Defendant, Aman Gas, by and through his attorney, and responds to
the States Request for Discovery as follows:


1. See documents attached
 - a. See medical records attached, Nos. 1 - 11.

Defendant reserves the right to supplement this response prior to trial.

Third Response to Discovery Request
Page 1

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 APR 16 PM 4:07
BY KH
DEPUTY CLERK

Dated this 16 day of April 2014.



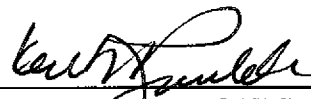
KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE


I **HEREBY CERTIFY** that on the 16 day of April 2014, I served a true and correct copy of the **THIRD RESPONSE TO REQUEST FOR DISCOVERY** was served upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

VISIT ID: 5011618				REGISTRATION FORM		MEDICARE RECORD NUMBER: 000252732	
PATIENT'S LAST NAME, FIRST, MIDDLE		MAIDEN	DEPT LOCATION	SERVICE	ADMIT DATE/TIME	ADMISSIONS CLERK	
GOODIN-GUZMAN, RAUSHELLE, MAUREE			EMERGENCY DEPARTMENT	004 EMERGENCY MEDICINE	01/20/2013 04:20	gv5524	
CHIEF COMPLAINT	SOURCE	PATIENT TYPE	PRIMARY LANGUAGE	SMOKER?	RACE	VETERAN	DPA/LW
SA	NON HEALTH CARE FACILITY	EMERGENCY ROOM	Unknown		H		PATIENT HAS ADVANCED DIRECTIVE
PATIENT'S STREET ADDRESS		CITY, STATE, ZIP CODE		SEX	AGE	DATE OF BIRTH	
145 HILCREST APT 38		AMERICAN FALLS, ID, 83211		F	23Y	08/13/1989	
MARITAL STATUS	RELIGION	SOCIAL SECURITY NO.	HOME PHONE	EMPLOYER			
SINGLE	99	619284301	(208)705-8662	UNEMPLOYED			
ADMITTING PHYSICIAN		ATTENDING PHYSICIAN					
GERBER, DAVID		GERBER, DAVID					
NAME OF SPOUSE (PARENTS OR GUARDIAN IF MINOR)		ADDRESS		RELATIONSHIP		PHONE NUMBER	
EMERGENCY CONTACT		ADDRESS		RELATIONSHIP		PHONE NUMBER	
GOODIN, JOSHUA G		3132 NEELEY LOOP AMERICAN FALLS, ID 83211		OTHER FAMILY		(208)269-0501	
PREV. ADMIT DATE				ACCIDENT DATE/TIME			
04/15/2012 00:10							
HOSPITALIZATION INSURANCE NO. 1		CERT NO. / POLICY HOLDER		GROUP NAME/NUMBER			
MEDICAID		0001692544 GUZMAN, RAUSHELLE MAUREE DOB: [REDACTED]					
HOSPITALIZATION INSURANCE NO. 2		CERT NO. / POLICY HOLDER		GROUP NAME/NUMBER			
		DOB:					
HOSPITALIZATION INSURANCE NO. 3		CERT NO. / POLICY HOLDER		GROUP NAME/NUMBER			
		DOB:					
GUARANTOR NAME		GUARANTOR ADDRESS			GUARANTOR PHONE NUMBER		
GOODIN-GUZMAN, RAUSHELLE, M		145 HILCREST APT 38 AMERICAN FALLS, ID 83211			(208)705-8662		
					GUARANTOR DOB		
					08/13/1989		



BR00002

01/20/2013 06:11:11

CONSENT TO MEDICAL AND SURGICAL TREATMENT

Knowing the above patient is suffering from a condition requiring diagnosis and medical or surgical treatment, the undersigned hereby voluntarily consents to and authorizes such diagnostic, medical and/or surgical services to be performed on the above-named patient as the physician or physicians in charge of the patient's care, and his/her assistants or designees, may consider necessary in their judgment, including, but not limited to, services involving injections, transfusion treatments, anesthesia, surgery, pathology, radiology and laboratory procedures including testing for HIV and other communicable diseases, and whether performed on the patient as an Emergency Room service or outpatient service or inpatient service or any combination of such services. The undersigned grants permission for; 1) observers involved in medical or health care training and education to be present when the patient receives health care services and; 2) for the recording or filming of any and all services for internal organization purposes. The use of these images for any external and/or public purpose requires separate specific consent.

The undersigned, acknowledges that he/she understands that the patient's care is under the control of his/her attending physicians and Portneuf Medical Center (Hospital) is not liable for any act or omission of such physicians nor is the Hospital liable for any results that may occur to the patient in following such physicians' instructions. The undersigned acknowledges that no guarantee or assurance has been given as to the results that may be obtained from the health care provided. The undersigned recognizes that most doctors of medicine furnishing services to the patient, including, but not limited to, the radiologist, pathologist, anesthesiologist, anesthesiologist, emergency physicians, mid levels and the like are independent contractors and are not employees or agents of the Hospital. You will receive a separate billing statement from these providers.

Portneuf Medical Center (PMC) does have physician owners and a list of the physician owners is available upon request to Administration.

NOTICE

Portneuf Medical Center does not discriminate on the basis of race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, or gender identity. In addition, Portneuf Medical Center does not discriminate on the basis of ability to pay with regard to emergency services. All patients that present at PMC are eligible for an emergency medical screening exam and emergency services. For non-emergent or elective procedures all patients will be responsible for payments according to our Pre-Authorization/Referrals for Non-Urgent and Routine Admissions/Services Policy.

Hospital keeps a record of the health care services provided to patient. Hospital will only disclose the patient's record in accordance with the Hospital's current Notice of Privacy Practices. The undersigned may see the medical record of patient or get more information about it at the Health Information Management Department of Hospital, Monday through Friday, 8:00 a.m. to 3:30 p.m.

It is understood by the undersigned that the Hospital is not responsible for personal property that is not deposited in the Hospital's safe.

THE UNDERSIGNED ACKNOWLEDGES THAT THIS IS A TWO PAGE DOCUMENT AND THAT HE/SHE HAS RECEIVED A COPY OF THIS DOCUMENT AND THAT HE/SHE HAS READ, FULLY UNDERSTANDS, AND AGREES TO ALL OF THE ABOVE PROVISIONS AND INFORMATION IN THIS DOCUMENT.

THE UNDERSIGNED FURTHER ACKNOWLEDGES THAT HE/SHE HAS RECEIVED A COPY OF PORTNEUF MEDICAL CENTER'S NOTICE OF PRIVACY PRACTICES AND A COPY OF THE PATIENTS RIGHTS AND RESPONSIBILITIES. FOR ANY QUESTIONS PLEASE CONTACT THE DIRECTOR OF HEALTH INFORMATION SERVICES AT 208 239 1120.

Raushelle Guzman 1/20/13 4:22
Signature of Patient Date Time Legal Relationship to Patient if not signed by Patient

Goodin-Guzman 1/20/13 4:22
Witness Date Time

ASSIGNMENT OF HEALTH BENEFIT PLAN AND/OR INSURANCE BENEFITS

In the event the patient is entitled to hospital, medical and other health-related benefits of any type whatsoever arising out of any contract or policy of insurance providing health benefits or insuring the patient or any other party liable to the patient, said benefits are hereby assigned to the Hospital, and when applicable, to the radiologist, the pathologist, the anesthesiologist and other physicians rendering care to the patient, as their interests may appear, for the exclusive purpose of paying for charges associated with health care services provided to the patient in the Hospital. It is understood and intended that all health benefit plans and insurance companies will pay benefits directly to Hospital in payment of Hospital's charges and the charges of any other

 **Portneuf**
MEDICAL CENTER

CONSENT TO MEDICAL & SURGICAL TREATMENT

Date: 01/20/2013 04:20

Page 1 of 2

BR0007

5011618

000252732

GOODIN-GUZMAN, RAUSHELLE

DOB [REDACTED] Female 23Y



health care providers for who Hospital is authorized to bill in connection with health care services provided to the patient. Independent contractor physicians, such as radiologists, pathologists, anesthesiologists, surgical specialists and the like may not be contracted with the patient's particular health benefit plan or insurance company, including Medicare and Medicaid, therefore, the patient may be completely responsible for the cost of their services. The patient and/or the undersigned are solely responsible to contact the above referenced physicians who provide health care services to the patient in order to determine whether the physicians participate in the health benefit plan and/or insurance company that provides health care benefits to the patient. The undersigned and/or the patient shall be responsible for charges not covered by this assignment.

RELEASE OF PATIENT INFORMATION

The Hospital may use or disclose all or any part of the patient's records in accordance with the Hospital's current Notice of Privacy Practices.

FINANCIAL AGREEMENT - COVENANT TO PAY

The undersigned, whether he/she signs as the patient or an agent of the patient, understands and agrees that upon admission to Hospital, the patient enters into a contract for payment of services rendered to him/her. This document constitutes a binding contract between the patient and the Hospital. The undersigned agrees that in consideration of the services to be rendered to the patient, he/she hereby individually obligates himself/herself, and if married, obligates his/her marital community, to pay the account of the Hospital in accordance with its regular rates and terms. Due to the inability to determine a final billing at the hour of discharge, the Hospital reserves the right to make adjustments for services rendered, the billing for which has not reached the business office at the time of discharge. The undersigned understands and agrees that he/she is responsible for payment of this account and agrees to comply with the terms and conditions of the Hospital's credit policy. All account balances are due and payable within ninety (90) days from the time of initial billing with the exception that outpatient accounts are due and payable in full at the time of service provided, however, if the patient is covered by Medicare the Hospital shall allow 120 days to elapse from the date of initial billing in order for Medicare to remit payment for the services rendered to the patient. The Hospital may charge interest at the rate of 18% per annum on any delinquent balances, or at a lesser rate as determined by that financial institution assisting the Hospital with its patient self-pay accounts. Moreover, should the account be referred to an attorney for collection, the undersigned shall pay reasonable attorneys fees and all costs and collection expenses.

If the patient does not have health benefit plan or insurance coverage and would like to pay the account balance on an installment basis, then the undersigned may apply for a credit plan with a financial counselor of the Hospital. If the patient does have health benefit plan or insurance coverage, the Hospital will assist the patient in the filing of an insurance or health benefit plan claim, provided the Hospital has complete information (policy numbers and forms) at the time of admission. However, the patient's health benefit plan or insurance contract is between the patient and the patient's health benefit plan issuer or insurance carrier. The undersigned may be expected to pay the full amount within one hundred twenty (120) days of the date of initial billing if the patient's health benefit plan or insurance company has not made full payment within such time.

Independent Practitioners such as radiologists, pathologists, anesthesiologist, emergency physicians and mid levels, will bill separately and you've agreed to pay them as well. Patients may do their own insurance billing. However, as stated, all accounts must be paid in full within one hundred twenty (120) days after the date the initial bill is sent by the Hospital to the undersigned.

STATEMENT TO PERMIT PAYMENT OF MEDICARE PHYSICIANS AND PATIENT

The undersigned requests payment of authorized Medicare benefits to he/she or on his/her behalf for any services furnished to the patient by or in the Hospital, including physician services, and requests payment of authorized charges be made in the patient's behalf directly to the Hospital for its charges. The undersigned authorizes Hospital or any other holder of medical and other information about the patient to release to Medicare, the Center for Medicare and Medicaid Services, or any of its intermediaries, carriers or agents, any information needed to determine these benefits or benefits for related services.

The term "undersigned" for purposes of this document means the signature on page one of this document.



CONSENT TO MEDICAL & SURGICAL TREATMENT

Date: 01/20/2013 04:20

Page 2 of 2

BR0007

5011618

000252732

GOODIN-GUZMAN, RAUSHELLE

DOB [REDACTED] Female 23Y

Portneuf Medical Center

EMERGENCY FLOW SHEET RECORD

Name: Goodin-Guzman, Raushelle M Age: 23Y MR: 000252732 Acct: 5011618

VITAL SIGNS	ANNW	ANNW
TIME	1/20/2013 07:37	1/20/2013 05:22
BP	143/92	148/102
PULSE	109	122
RESP	18	20
TEMP		98.7
PAIN	6	7
O2 SAT	96 on ra	96 on ra

Name: Goodin-Guzman, Raushelle M Age: 23Y MR: 000252732 Acct: 5011618
Prepared: Thu Feb 14, 2013 00:16:31 by Page: 1

**PORTNEUF MEDICAL CENTER
PRIMARY**

Goodin-Guzman, Raushelle M
DOB: 8/13/1989 F23
Wt/Ht:
MedRec: 000252732
AccNum: 5011618

Patient Data

Complaint: SA
Triage Time: Sun Jan 20, 2013 04:25
Urgency: LEVEL 3
Bed: ED ER
Initial Vital Signs: 1/20/2013 05:22
BP:148/102
P:122
O2 sat:96 on ra

ED Attending: Sandy,MD, Curtis
Primary RN: Wilcox, RN SANE, Ann

R:20
T:98.7
Pain:7

DIAGNOSIS (07:23 SAND)

FINAL: PRIMARY: Examination or observation - alleged sexual assault victim.

DISPOSITION

PATIENT: Disposition Type: Discharge, Disposition: Home, Disposition Transport: Private
Vehicle, Condition: Stable. (07:23 SAND)
Infusion Start/Stop: N/A, Patient left the department. (08:38 ANNW)

HPI SEXUAL ASSAULT (07:27 SAND)

CHIEF COMPLAINT: Patient presents for evaluation of alleged assault.

HISTORIAN: History provided by patient.

LOCATION: Symptoms are localized, most severe to anus.

SEVERITY: Maximum severity of symptoms moderate, Currently symptoms are mild.

TIME COURSE: Date and time of assault per nurses note.

ASSOCIATED WITH: No associated chest pain, associated abdominal pain.

SEXUAL ASSAULT KIT: Sexual assault exam performed using state provided sexual assault kit, then turned over to police following completion of exam.

PAST MEDICAL HISTORY

MEDICAL HISTORY: No past medical history. (04:27 TAZ)

SURGICAL HISTORY FEMALE: wisdom teeth, Surgical history of cesarean section.

(04:27 TAZ)

PSYCHIATRIC HISTORY: History of depression, History of suicidal ideation, History of suicide attempts. (04:27 TAZ)

SOCIAL HISTORY: Patient consumes alcohol socially. (04:27 TAZ)

NOTES: Nursing records reviewed. (07:27 SAND)

ALLERGY (04:27 TAZ)

Allergies **CONFIRMED** in PARAGON

Patient **DENIES** Drug Allergies

MEDICATION ADMINISTRATION SUMMARY

Drug Name	Dose Ordered	Route	Status	Time
*Rocephin Solution for Injection	250 mg	IM	Given	07:34 1/20/2013
*AZITHROMYCIN Tab	1 gm	PO	Given	07:20 1/20/2013

*Additional information available in notes, Detailed record available in Medication Service section.

CURRENT MEDICATIONS (04:28 TAZ)

Patient **DENIES** Medications

ROS

CONSTITUTIONAL: Historian denies malaise, Historian denies weakness. (07:27

SAND)

EYES: Negative eye review of systems, Historian denies eye pain, Historian denies eye discharge, Historian denies vision changes. (Tue Jan 22, 2013 02:38 SAND)

ENT: Negative ears, nose, throat review of systems, Historian denies dysphasia, Historian

Prepared: Thu Feb 14, 2013 00:16 by Page: 1 of 5

**PORTNEUF MEDICAL CENTER
PRIMARY**

Goodin, Gorman, Roushelle M
DOB: [REDACTED]
Wt/Ht:
MedRec: 000252732
AcctNum: 5011618

denies epistaxis. (Tue Jan 22, 2013 02:38 SAND)

CARDIOVASCULAR: Historian denies chest pain. (07:27 SAND)

RESPIRATORY: Negative respiratory review of systems, Historian denies cough, Historian denies shortness of breath. (Tue Jan 22, 2013 02:38 SAND)

GI: Historian denies abdominal pain, Historian denies hematemesis, Historian reports hematochezia. (07:27 SAND)

MUSCULOSKELETAL: Negative musculoskeletal review of systems, Historian denies fall, Historian denies joint redness, Historian denies joint stiffness. (Tue Jan 22, 2013 02:38 SAND)

SKIN: Negative skin review of systems, Historian denies cellulitis, Historian denies rash. (Tue Jan 22, 2013 02:38 SAND)

NEUROLOGIC: Negative neurologic review of systems. (Tue Jan 22, 2013 02:38 SAND)

HEMO/LYMPHATIC: Historian denies abnormal blood clotting, Historian denies easy bruising. (Tue Jan 22, 2013 02:38 SAND)

ALLERGIC/IMMUNOLOGIC: Historian denies environmental allergies, Historian denies frequent infections. (Tue Jan 22, 2013 02:38 SAND)

PSYCHIATRIC: Negative psychiatric review of systems, Historian denies depression, Historian denies memory loss. (Tue Jan 22, 2013 02:38 SAND)

NOTES: All systems reviewed, negative except as described above. (Tue Jan 22, 2013 02:38 SAND)

VITAL SIGNS

VITAL SIGNS: BP: 148/102, Pulse: 122, Resp: 20, Temp: 98.7, Pain: 7, O2 sat: 96 on ra, Time: 1/20/2013 05:22. (05:22 ANRW)

BP: 143/92, Pulse: 109, Resp: 18, Pain: 6, O2 sat: 96 on ra, Time: 1/20/2013 07:37. (07:37 ANRW)

PHYSICAL EXAM

CONSTITUTIONAL: Patient afebrile, Pulse normal, Blood pressure normal, Respiratory rate normal, Patient appears non toxic, Patient appears, in mild pain distress, Patient alert and oriented to person, place and time. (07:27 SAND)

HEAD: Head exam included findings of head atraumatic, normocephalic. (07:28 SAND)

EYES: Eye exam included findings of eyelids normal to inspection, Pupils equally round and reactive to light. (07:28 SAND)

NECK: Neck exam included findings of normal range of motion, Trachea midline. (07:28 SAND)

RESPIRATORY CHEST: Respiratory exam included findings of no respiratory distress, Breath sounds clear, Chest exam included findings of chest movement symmetrical. (07:28 SAND)

CARDIOVASCULAR: Cardiovascular exam included findings of heart rate regular rate and rhythm, Heart sounds normal. (07:28 SAND)

ABDOMEN FEMALE: Abdominal exam included findings of abdomen nontender, Bowel sounds normal. (07:27 SAND)

UPPER EXTREMITY: Upper extremity exam included findings of inspection normal, Range of motion normal. (07:28 SAND)

LOWER EXTREMITY: Lower extremity exam included findings of inspection normal, Range of motion normal. (07:28 SAND)

NEURO: Glasgow coma scale 15, Neuro exam findings include patient oriented to person, place and time. (07:28 SAND)

SKIN: Skin exam included findings of skin warm, dry, and normal in color. (07:28 SAND)

PSYCHIATRIC: Psychiatric exam included findings of patient oriented to person place and time, Normal affect. (07:28 SAND)

DOCTOR NOTES (07:28 SAND)

**PORTNEUF MEDICAL CENTER
PRIMARY**

Good: [REDACTED] helle M
DOB: [REDACTED]
Wt/Ht: [REDACTED]
MedRec: 000252732
AcctNum: 5011618

NOTES: SANE kit done - STD prophylaxis given.
small anal tears noted - will have use local treatment.
RE-EVALUATION: The patient's condition has stabilized.
PATIENT PLAN: The patient will be discharged.

MEDICATION SERVICE

AZITHromycin Tab: Order: AZITHromycin Tab (azithromycin) - Dose: 1 gm : PO

Notes: per SA orders

Ordered by: David Gerber, MD

Entered by: Ann Wilcox, RN SANE Sun Jan 20, 2013 07:30

Documented as given by: Ann Wilcox, RN SANE Sun Jan 20, 2013 07:20

Patient, Medication, Dose, Route and Time verified prior to administration.

Site: Medication administered P.O., Snack given with administration, Correct patient, time, route, dose and medication confirmed prior to administration, Patient advised of actions and side-effects prior to administration, Allergies confirmed and medications reviewed prior to administration.

Rocephin Solution for Injection: Order: Rocephin Solution for Injection (ceftriaxone sodium) -

Dose: 250 mg : IM

Notes: per SA orders

Ordered by: David Gerber, MD

Entered by: Ann Wilcox, RN SANE Sun Jan 20, 2013 07:30

Documented as given by: Ann Wilcox, RN SANE Sun Jan 20, 2013 07:34

Patient, Medication, Dose, Route and Time verified prior to administration.

IM antibiotic, Medication administered to right hip, Correct patient, time, route, dose and medication confirmed prior to administration, Patient advised of actions and side-effects prior to administration, Allergies confirmed and medications reviewed prior to administration.

INSTRUCTION (07:23 SANE)

SPECIAL: Can us hemorrhoid creams or pads for sore areas.

Follow up as needed. Return if worse or any concerns.

PRESCRIPTION

No recorded prescriptions

NURSING ASSESSMENT: SEXUAL ASSAULT (08:23 ANNW)

NOTES: Pt reports drinking with friends at a friend's house, left to go to have sex x 2 with ex-boyfriend, came back around eight and 'passed out' on couch in the living room around nine or ten. Woke up to 'being fondled down there' clarified what 'down there' meant; anus only. Turned over and saw who it was and kind of swatted at him because still not fully awake. 'Kept messing with me with fingers'. Trying to put them in her mouth as well. 'Trying to stick it in.'; meaning his penis in her anus. Successful penetration on third attempt. Pt told him 'No, I have to go to the bathroom.' Noted to have blood in toilet when she went to the bathroom. Stayed between friend's room and bathroom while friend was in there, then hid in bathroom. Friend told her that her dad was coming to get her. Grabbed her jacket and shoes and walked down to corner house. Sat and had a cigarette, 'hid pretty much'.

2 beers and shot before, 2 middle, 3 beers and a shot @ end. Pt denies feeling like drugs were used.

Father picked her up around 0330.

CONSTITUTIONAL: Patient arrives ambulatory, Gait steady, Patient appears comfortable,

Patient cooperative, alert. Oriented to person, place and time, Skin warm, Skin dry, Skin normal in color, Mucous membranes pink, moist. Patient is well-groomed.

PAIN: anus, Onset of pain 0130-0200, on a scale 0-10 patient rates pain as 7.

SEXUAL ASSAULT HISTORY: Sexual assault history obtained from patient, Sexual assault

exam performed without specimen collection, Police notified, by emergency department staff, Date and time of assault 1/20/13 approx 0130-0200, Location: Friend Andrea Hamblin Ogalla's

**PORTNEUF MEDICAL CENTER
PRIMARY**

Goodin-Guzman, Raushelle M
DOB: [REDACTED]
Wt/Ht: [REDACTED]
Med Rec: 000252732
AccNum: 5011618

house 'off Pine', assaulted by known assailant, Name: Amon, After assault, patient has rinsed mouth, After assault, patient has drank fluids, After assault, patient has urinated, Patient has had consensual sexual activity within 72 hours of assault, on 1/19/2013 approx 2000, with boyfriend Aadi.

ASSAULT DETAILS FEMALE: Sexual assault details include no vaginal contact occurred with penis, no vaginal contact occurred with finger, no vaginal contact occurred with foreign object, Anal contact occurred with penis, Anal contact occurred with finger, no anal contact occurred with foreign object, no oral copulation of genitals of victim by perpetrator occurred, no oral copulation of genital of perpetrator by victim occurred, no masturbation of victim by perpetrator occurred, no masturbation of perpetrator by victim occurred, Unknown if ejaculation occurred inside body orifice, 'I don't think so', no ejaculation occurred outside body orifice, Victim was fondled by perpetrator, only in anal area, Victim was not licked by perpetrator, Victim was not kissed by perpetrator, Perpetrator did not use force, Unknown if prophylactic measures were utilized, Perpetrator did not expose self to victim, Victim did not expose self to perpetrator, Perpetrator did not show photos or videos to victim, No photos or videos were taken of victim by perpetrator.

NURSING PROCEDURE: EVIDENCE COLLECTION

PATIENT IDENTIFIER: Patient's identity verified by patient stating name, Patient's identity verified by patient stating birth date. (06:10 ANNW)

EVIDENCE COLLECTION: Evidence collection indicated to maintain physical evidence, Clothing taken into evidence include bra, Description lime green with white polka dots, Clothing taken into evidence include jacket, Description black shrug, Clothing taken into evidence include pants, Description Jeans, Clothing taken into evidence include shirt, Description aqua blue cami, Clothing taken into evidence include undershirt, Description Gray cami with lace bottom, Sexual assault kit collection completed, Written consent obtained for photographs to be taken, from patient, Photograph(s) taken in the Emergency Department, Number of photograph(s) taken 11, Photograph(s) taken by Ann Wilcox, RN, SANE-A, Notes: **PHOTO LOG:**
1/11: out of focus
2/11: vulva, shaved
3/11: back-side
4/11: anus. Pubic hair noted to left cheek, collected for evidence.
5/11: anus, tear noted in gluteal fold 12 o'clock (if pt standing); approx 1 cm length.
6/11: anus: previously noted tear, and additional noted at approx 11 o'clock 7-10 mm in length.
7/11: anus, after toluidine blue staining. Additional laceration noted @ 2 o'clock, appears to enter rectum, approx 1 cm in length visible.
8-11/11: anus following toluidine blue, 3 lacerations as previously noted. (06:10 ANNW)
CHAIN OF CUSTODY: Evidence collection completed, by AWilcox, RN SANE-A, at: 0730, Evidence sealed, by AWilcox, RN, SANE-A, at: 0820, Evidence released to, to Detective Marshall, badge number 5203, from PPD, by Ann Wilcox, RN, SANE-A, at: 0820. (06:20 ANNW)

NURSING PROCEDURE: LAB DRAW (07:17 ANNW)

PATIENT IDENTIFIER: Patient's identity verified by patient stating name, Patient's identity verified by patient stating birth date.

LAB DRAW: Lab draw indicated for obtaining specimens for evaluation, by venipuncture, from right antecubital, in one attempt, Lab specimens labeled in the presence of the patient and sent to lab.

TRIAGE (Sun Jan 20, 2013 04:25 TAZ)

PATIENT: NAME: Goodin-Guzman, Raushelle M, GENDER: female, DOB: [REDACTED]
TIME OF GREET: Sun Jan 20, 2013 04:20, RACE: Hispanic, PHONE: 208705-8662, MEDICAL RECORD NUMBER: 000252732, ACCOUNT NUMBER: 5011618, Primary Care: unknown. (Sun

Jan 20, 2013 04:25 TAZ)

ADMISSION: URGENCY: LEVEL 3, TRANSPORT: Police, BED: ER 07. (Sun Jan 20, 2013 04:25 TAZ)

Name: Goodin-Guzman, Raushelle M
Age: 23Y DOB: [REDACTED]
Gender: F
MedRec: 000252732
AcctNum: 5011618
Attending: SAND
Primary RN: ANNW
Bed: ED ER 07

**PORTNEUF MEDICAL CENTER
DISCHARGE INSTRUCTIONS RECEIPT**

FINAL DIAGNOSIS

Examination or observation – alleged sexual assault victim

THE FOLLOWING SPECIAL INSTRUCTIONS WERE GIVEN

Can us hemorrhoid creams or pads for sore areas.

Follow up as needed. Return if worse or any concerns

PLEASE CALL OR RETURN IF THERE ARE ANY EMERGENT PROBLEMS.

PLEASE NOTE: Your treatment given in the Emergency Department is offered as EMERGENCY FIRST CARE ONLY. Follow up treatment with your Primary Care Provider is recommended. Please follow your discharge instructions as directed by the RN/MD/PA.

I HEREBY ACKNOWLEDGE RECEIPT AND HAVE RECEIVED THE ABOVE PRINTED DISCHARGE INSTRUCTIONS/PROCEDURES AND TESTS.

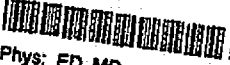
NAME: [Signature]

RELATIONSHIP TO PATIENT: _____

DATE: _____

NURSE SIGNATURE: [Signature]

PHYSICIAN/PA SIGNATURE: _____

 5011618
Phys: ED, MD
MRN: 000252732 01/20/2013 04:20
GOODIN-GUZMAN, RAUSHELLE
DOB: 08/13/1989 Female 23Y

INSTRUCTIONS: Check off desired orders. If not checked it won't be done. Cross out orders that are already checked if you don't want them implemented; indicate rationale for crossed out orders. Standardized orders are not appropriate for all patients and clinical judgment is required.

PHYSICIAN'S ORDERS

DIAGNOSIS:

Code Status _____ Admit to ☐ INPATIENT ☐ OBSERVATION ☐ OUTPATIENT

Allergies: _____ ☐ NKA

Primary Care Physician _____ Admit to (physician) _____

Please check all that apply: ☐ Dialysis ☐ Renal Failure ☐ Pregnant ☐ Breast Feeding Pt. Ht. _____ Pt. Wt. _____

MEDICATIONS/IV

☒ Ceftriaxone 250mg IM X 1 (Single Dose). Indication: Gonorrhea
PLUS

☐ Metronidazole 2gm PO X 1 (Single Dose). Indication: Trichomoniasis
PLUS

☒ Azithromycin (Note: if allergy exists, can give Doxycycline) 1gm PO X 1 (Single Dose). Indication: Chlamydia/Syphilis
OR

☐ Doxycycline 100mg PO BID X 7 days. Indication: Chlamydia/Syphilis

* Caution: If patient has been drinking alcohol in last 72 hours, do not give Flagyl until 72 hours has elapsed. Advise patient to not drink any alcohol for at least 72 hours post medication.

EMERGENCY CONTRACEPTION

☐ Plan B One-Step (levonorgestrel) 1.5mg PO X 1 (Single Dose). Indication: Pregnancy

OTHER

☐ Hepatitis B Vaccine 10mcg/1mL IM

☐ Other: _____

_____, (Physician's Initials) I have verified the patient's drug allergies and acknowledge there is a potential for a drug reaction in this patient.
The benefits of administering this medication outweigh the risks and I authorize the administration of the medications as ordered.

I have explained the risks, benefits and alternatives of the procedure to the patient and patient agrees to proceed.

Physician Signature _____ Date 1/20/2013 Time 5:53 AM

 **Portneuf**
MEDICAL CENTER

PHYSICIANS' ORDERS—
STD PROPHYLAXIS & EMERGENCY
CONTRACEPTION
FOR SEXUAL ASSAULT PATIENTS

Page 1 of 1

DOC NO DR00233 (02/09/12) ES

PINK COPY — PATIENT CHART YELLOW COPY — PHARMACY

 5011618

Phys: ED, MD
MRN: 000252732 01/20/2013 04:20
GOODIN-GUZMAN, RAUSHELLE
DOB: _____ female 23Y

Do Not Place Below This Line.

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 APR 16 PM 4:07
BY KH
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

)
) **CASE NO. CR-2013-864-FE-A**
)

) **FIRST MOTION TO COMPEL**
)
)
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)
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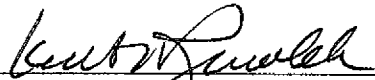
COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V. Reynolds, Deputy Public Defender, and hereby moves this Court pursuant to Rule 16, Idaho Criminal Rules, for its order compelling the State to produce all photographs generated in connection with this case including but not limited to photographs taken during the sexual assault examination (SAE) of Raushelle Guzman taken at Portneuf Medical Center by Ann Wilcox, SANE, R.N., or Curtis Sandy, M.D., or a representative of the Pocatello Police Department. This information was requested in Defendant's Sixth Discovery Motion. The State in its response has refused to disclose the photographs taken during the SAE until Defendant has disclosed an expert

First Motion to Compel
Page 1

witness.

Defendant further requests to court to issue and order compelling the State to Respond to Defendant's Fourth Discovery Motion.

DATED this 16 day of April, 2014.

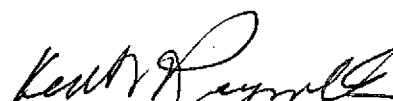

KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 16 day of April, 2014, I served a true and correct copy of the **FIRST MOTION TO COMPEL** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Deputy Public Defender

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 APR 18 PM 2:07

BY KIL
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

vs.

AMAN GAS,

Defendant.

CASE NO. CR-2013-864-FE

**ADDITIONAL STIPULATION OF
THE PARTIES RE: MOTION TO
SUPPRESS AND THE ADMISSION
OF ADDITIONAL EVIDENCE**

Comes now the State of Idaho, by and through its attorney, JaNiece Price, Assistant Chief Deputy Prosecuting Attorney, and the Defendant, Aman Gas, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and hereby submit the following stipulation.

The parties hereby stipulate to the following additional facts:

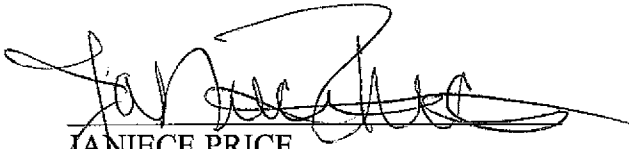
On January 20, 2013, at or around 4:47 A.M., Officer Eldridge was at 425 Hyde Street Pocatello, Idaho, Bannock County, in reference to an investigation involving Raushelle Guzman and Aman Gas. Officer Eldridge transported Aman Gas from 425 Hyde Street to the Pocatello Police

Department. On January 20, 2013, Officer Eldridge's police vehicle had an in-car camera/recording device installed inside the vehicle. It was operating on January 20, 2013 at or around 4:47 A.M. The recording device/camera makes a recording from two different viewpoints. The first is a view that projects from the inside of the vehicle out the front window of the patrol car. The second is from the inside of the vehicle into that back seat compartment of the patrol car. Officer Eldridge escorted Aman Gas to his patrol car. The recording begins during the time Officer Eldridge is escorting Aman Gas to his patrol car. Attached and incorporated herein by reference is a copy of the recording made by Officer Eldridge's in-car camera/recording device. It continues until Officer Eldridge arrives in the sally port of the Pocatello Police Station. There are two recorded views which partially overlap. The first, camera 1, is out the front window of the patrol car. The second, camera 2, is from the inside into the back seat compartment area and begins during the running of camera 1.

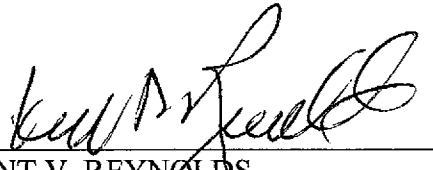
The parties further stipulate that the recording is a true and accurate copy of the recording made by Officer Eldridge's in-car camera/recording device which recording was made on January 20, 2013.

The parties further stipulate that the recording copy is admissible as evidence in the hearing on Defendant's Motion to Suppress.

Dated this 18th day of April, 2014.


JANIECE PRICE
Deputy Prosecuting Attorney

Dated this 18 day of April, 2014.


KENT V. REYNOLDS
Deputy Public Defender

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 APR 21 PM 4:03
BY Kil
DEPUTY CLERK

JaNIECE PRICE ISB #7161
Asst. Chief Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR 2013-0864-FE-A
Plaintiff,)	
)	
vs.	)	MOTION TO
	)	QUASH SUBPOENA
AMAN GAS,	)	DUCES TECUM
)	
Defendant.)	
_____)	

COMES NOW, the State of Idaho, Plaintiff, by and through JaNIECE PRICE, Assistant Chief Deputy Prosecuting Attorney, and hereby moves this Honorable Court to Quash the Subpoena Duces Tecum issued by the defendant in this matter to the Bannock County Jail on April 16, 2014.

This motion is based on the grounds and for the reasons that the material requested is overly broad in its scope, unduly burdensome, and the information being requested involves information that is beyond the scope and of no relevance to the case at hand.

DATED This 21st day of April, 2014.

JaNiece Price
JaNIECE PRICE
Asst. Chief Deputy Prosecuting Attorney

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

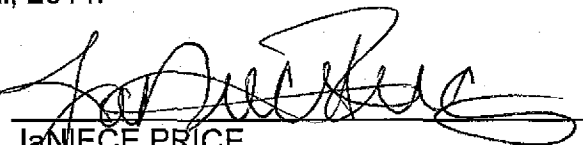
JaNIECE PRICE ISB#7161
Asst. Chief Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR 2013-0864-FE-A
Plaintiff,)	
)	
vs.)	
	)	NOTICE OF HEARING
AMAN GAS,)	
)	
Defendant.)	
_____)	

NOTICE IS HEREBY GIVEN, TO Court and Defendant that the State of Idaho will call up for hearing, its MOTION TO QUASH SUBPOENA DUCES TECUM on Monday, April 28, 2014, at the hour of 9:30 A.M., before the Honorable STEPHEN DUNN, Sixth District Judge, Courtroom No. 301 at the Bannock County Courthouse in Pocatello, Idaho.

DATED This 21st day of April, 2014.


JaNIECE PRICE
Asst. Chief Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I **HEREBY CERTIFY** That on this 21st day of April, 2014, a true and correct copy of the foregoing MOTION TO QUASH SUBPOENA DUCES TECUM and NOTICE OF HEARING was delivered to the following:

KENT REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile


JANIECE PRICE

RANDALL D. SCHULTHIES
Chief Public Defender
P. O. Box 4147
Pocatello, Idaho 83205
(208) 236-7040

KENT V. REYNOLDS
Assistant Chief Deputy
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

vs.

AMAN GAS,

Defendant.

Case No. CR-2013-0864-FE-A

SUBPOENA DUCES TECUM

THE STATE OF IDAHO TO:

**BANNOCK COUNTY JAIL
5800 S. 5TH
POCATELLO, IDAHO 83205**

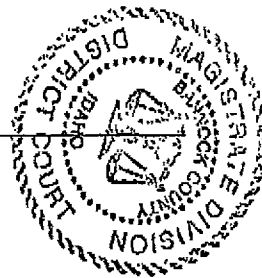
YOU ARE HEREBY COMMANDED Please produce any and all recorded jail calls involving Aman Gas from the date of November 1, 2013 to present.

YOU ARE FURTHER NOTIFIED that you must produce these documents by postal mail to my office or hand deliver on or before **April 21, 2014**, to the Bannock County Public Defenders Office, P.O. Box 4147, Pocatello, Idaho 83205.

DATED this 16 day of April, 2014.

BY ORDER OF THIS COURT.

By: 
Deputy Clerk



RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 APR 21 PM 4:07
BY KH
DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

vs.

AMAN GAS,

Defendant.

CASE NO. CR-2013-864-FE

**BRIEF IN SUPPORT
OF MOTION TO SUPPRESS**

COMES NOW the Defendant, Aman Gas, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and hereby submits the following brief in support of Defendant's Motion to Suppress.

ISSUES

Whether the statements and physical evidence must be suppressed as the statements and physical evidence were obtained as a result of a violation of the Defendant's due process rights pursuant to the 5th and 14th Amendments, and were obtained in violation of the Defendant 4th and 5th Amendment rights.

Brief in Support of Motion to Suppress
Page 1

FACTS

Defense counsel does not intend to set forth the factual background as the factual background is based upon the evidence presented at the Motion to Suppress hearing, the stipulation of facts during the hear and the video and audio recordings introduced into evidence. ¹ A basic summary of the facts will be presented to provide only a factual framework and their relationship to the suppression issues and legal theories asserted by the Defendant.

On or about January 19, 2013, Aman Gas, along with others were at a house located at 425 Hyde, Pocatello, Idaho. During the evening, Rauschelle Goodin-Guzman, the alleged victim, had contact with Aman Gas at the residence. At or around 11:30 P.M., Aman Gas left the residence and went to Hooligans. He returned to the residence on January 20, 2013 around 3:00 A.M. He laid down on the couch and went to sleep.

Sometime around 3:43 A.M., the Pocatello Police Department, via dispatch, was contacted regarding an alleged sexual assault involving Ms. Guzman and Aman Gas. Pocatello Police officers arrived at the residence shortly after the dispatch contact. Several officers were at the residence including Officer Brown. Aman Gas was awoken by Pocatello Police officers sometime around 4:45 A.M. Aman was contacted. Aman Gas was placed in handcuffs, placed in a patrol car and transported to the Pocatello Police Station. He was placed in the interview room and the handcuffs

¹ Additional facts may be submitted by way of an affidavit or stipulation regarding the testimony of Officer Lambson who may have transported Aman Gas from the Hyde house to the Pocatello Police Station and who is known to have transported Aman Gas to and from the Portneuf Medical Center and focus particularly on whether or not Aman Gas was placed in handcuffs during the transports.

were removed. Marshall then began to interrogate Aman Gas.² Marshall testified he told Aman Gas that he was not under arrest and that he could leave at anytime.

ARGUMENT

The 5th Amendment to the United States Constitution provides that no person shall be required to be a witness against himself. This self incrimination protection and its application culminated in *Miranda v. Arizona*. Pursuant to case, law enforcement cannot interrogate or conduct a custodial interrogation or interview of a person about alleged criminal conduct unless the person is advised of his Miranda warnings and the warnings must be given prior to the interrogation. As stated, "The requirement for Miranda warnings it triggered by custodial interrogation." *State v. Merino*, 123 Idaho 114, 844 P.2d 1364 (Ct. App. 1992). The critical inquiry is what constitutes custodial interrogation.

The courts have defined custodial interrogation as a situation wherein the defendant is placed in custody. By definition, a person under arrest is in custody. Other circumstances can also equate to custody. It is when a person is being deprived of his or her freedom by authorities in a significant way. *Miranda v. Arizona*, 384 U.S. 436 (1966). The test has evolved and is defined as a situation wherein a person's freedom of action is curtailed to a degree associated with an arrest. *Berkmeyer v. McCarthy*, 438 U.S. 420 (1984); *State v. Myers*, 118 Idaho 608, 798 P. 2d 453 (Ct. App. 1990). The determination of custody is based upon the objective circumstances of the interrogation. *Stansbury v. California*, 511 U.S. 318 (1994). "The relevant inquiry is how a reasonable person in the suspect's position would have understood the situation." *State v. Silver*, 155 Idaho 29, 304 P.3d 304 (Ct. App. 2013); *State v. Hurst*, 151 Idaho 430, 258 P. 2d 950 (Ct. App. 2011).

² The video recording, Exhibit ___, contains the entirety of the interrogation. Even though testimony regarding what was said during the interrogation is subject to what actually was recorded on the video.

The subjective views of the interrogating officers is not controlling on whether an interrogation by a law enforcement officer is undertaken during custody. Stansbury v. California, 511 U.S. 318 (1994). Thus, the mere statement by law enforcement officers suggestive of a non-custodial interrogation is not controlling. Statements by a law enforcement officer suggesting the person who is in a police interview room in a police stations is not under arrest or they are free to go at anytime does not per se make the interrogation a non-custodial interrogation eliminating the need for Miranda warnings. "A court must consider all of the circumstances surrounding the interrogation." State v. Silver, 155 Idaho 29, 304 P.3d 304 (Ct. App. 2013); State v. James, 148 Idaho 574, 225 P. 3d 1172 (2010). The courts have stated,

This generally involves a consideration of whether the circumstances surrounding the interrogation have created a 'a police dominated atmosphere' and whether the circumstances involve the 'inherently compelling pressures' that are often present when a suspect is yanked from familiar surroundings in the outside world and subjected to interrogation in a police station. (Citations omitted). Specific factors to be considered may include the degree of restraint on the person's freedom of movement including whether the person is placed in handcuffs, whether the subject is informed of that the detention is more than temporary, the location and visibility of the interrogation, whether other person were present, the number of questions asked, the duration of the interrogation or detention, the time of the interrogation, the number of officers present, the number of officers involved in the interrogation, the conduct of the officers, and the nature and manner of questioning. State v. Silver, 155 Idaho 29, 304 P.3d 304 (Ct. App. 2013); Berkmeyer v. McCarthy, 438 U.S. 420 (1984); State v. James, 148 Idaho 574, 225 P. 3d 1172 (2010); State v. Merino, 123 Idaho 114, 844 P.2d 1364 (Ct. App. 1992).

The Idaho appellate courts have identified other factors which impact the voluntariness of statements made during an interrogation.

In determining the voluntariness of a confession, a court must look to the characteristics of the accused and the details of the interrogation, including the following:

1. Whether *Miranda* warnings were given;
2. The youth of the accused;

The subjective views of the interrogating officers is not controlling on whether an interrogation by a law enforcement officer is undertaken during custody. Stansbury v. California, 511 U.S. 318 (1994). Thus, the mere statement by law enforcement officers suggestive of a non-custodial interrogation is not controlling. Statements by a law enforcement officer suggesting the person who is in a police interview room in a police stations is not under arrest or they are free to go at anytime does not per se make the interrogation a non-custodial interrogation eliminating the need for Miranda warnings. "A court must consider all of the circumstances surrounding the interrogation." State v. Silver, 155 Idaho 29, 304 P.3d 304 (Ct. App. 2013); State v. James, 148 Idaho 574, 225 P. 3d 1172 (2010). The courts have stated,

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The Idaho appellate courts have identified other factors which impact the voluntariness of statements made during an interrogation.

In determining the voluntariness of a confession, a court must look to the characteristics of the accused and the details of the interrogation, including the following:

1. Whether *Miranda* warnings were given;
2. The youth of the accused;

3. The accused's level of education or low intelligence;
4. The length of the detention;
5. The repeated and prolonged nature of the questioning; and
6. Deprivation of food or sleep.

State v. Draper, 151 Idaho 576, 261 P. 3d 853 (2011); State v. Troy, 124 Idaho 211, 858 P. 2d 750 (1993); Schneckloth v. Bustamonte, 412 U.S. 218, 226, 93 S.Ct. 2041, 2047, 36 L.Ed.2d 854 (1973).³ “Factors to be considered by the court include the time and location of the interrogation, the conduct of the officer or officers, the nature and manner of the questioning, and the presence of other persons. State v. Hurst, 151 Idaho 430, 258 P. 3d 950 (Ct. App. 2011).

Even confessions or statements obtained during a non-custodial interrogation can be suppressed. “The United States Supreme Court has recognized that a non-custodial interrogation might in some situations, by virtue of some special circumstances, be characterized as one where a defendant’s confession was not given voluntarily.” State v. Valero, 155 Idaho 910, 285 P. 3d 1014 (Ct. App. 2012); citing Beck v. United States, 425 U.S. 341, 96 S. Ct. 1612, 48 L. Ed.2d. 1 (1976). “If the defendant’s free will is undermined by threats or through direct implied promises, then the statement is not voluntary and is inadmissible. State v. Valero, 155 Idaho 910, 285 P. 3d 1014 (Ct. App. 2012); State v. Wilson, 126 Idaho 926, 894 P. 2d 159 (Ct. App. 1995). “Promises made by law enforcement officers without authority to fulfill such promises may render a confession involuntary.” *Id.*

The case implicates an analysis implicates both non-custodial interrogations and custodial interrogations. The facts establish that Aman Gas returned to the residence at 3:00 A.M. He then laid down on a couch and fell asleep. Aman Gas was awoken from his sleep sometime between 4:30

³ Although State v. Draper involved a minor, the factors identified are applicable to all interrogations with the exception of the youth of the accused. See State v. Troy and Schneckloth v. Bustamonte both involved adults and the voluntariness of their confessions based upon the totality of the circumstances in conjunction with the factors identified.

and 4:45 A.M. Prior to being transported to the Pocatello Police Station, Aman Gas was in contact with law enforcement officers. Arrangements were made to transport Aman Gas to the Pocatello Police Station.⁴ The transport officer placed Aman Gas in handcuffs. Whether he was placed into handcuffs pursuant to law enforcement policy does not alter that fact that he was handcuffed and placed in a patrol car. He was transported to the Pocatello Police Station at or between 4:45 A.M. and 4:50 A.M. This was custody and a situation in Aman Gas' freedom of movement was completely restricted.

After being transported to the police station, he remained handcuffed until he was taken into the interview room inside the police station. He arrived in the interview room at 4:55 A.M. Aman Gas was alone and within a hostile environment. The handcuffs were removed but Aman Gas was still being detained within the interview room. He was not free to leave. He could not have walked out of the police station of his own free will the mere removal of the handcuffs did not alter the totality of the circumstances. He was in the confines of the Pocatello Police Station and was in custody.

Other officers were around the interview room. Their voices could be heard. Aman Gas could hear the voices, they were the voices of other law enforcement officers. Aman Gas was in custody.

At or around 5:17 A.M., Detective Marshall and another officer entered the room. They began to interrogate Aman Gas. This was a custodial interrogation. A short time later, the other officer left the room. The first phase of the interview lasted to around 5:52 A.M. At or around 6:01 A.M., Detective Marshall returned and the interrogation continued. Detective Marshall had a

⁴ There is a dispute whether Aman Gas was told he was going to the police station or whether he was asked to go to the police station prior to his being handcuffed, placed in a patrol car and taken to the police station.

discussion with Aman Gas about his Miranda rights and signing the various waivers forms. At or around 6:12 A.M. Detective Marshall again left the interview room. Detective Marshall returned around 6:42 A.M. At or around 6:46 A.M. Aman Gas signs the Adults Rights Wavier form and possibly signed a consent to search his body for evidentiary purposes.

At or around 7:00 A.M., oral buccal swabs of Aman Gas' mouth were taken. At 7:07 A.M. Aman Gas was transported by Officer Lambson to the Portneuf Medical Center (PMC) where he was subjected to a sexual assault evidence examination (SAE). He was transported in a patrol car and was handcuffed from when he left the station until after he arrived at PMC. He was under constant police observation while the SAE was conducted. At the conclusion of the SAE, Aman Gas was again placed in handcuffs and transported to the police station in a patrol car. He was transported in a patrol car and he was in handcuffs. Aman Gas arrived at or around 8:47 A.M. he was taken back to the interview room and the handcuffs were removed. At or around 8:51 A.M. Detective Marshall returned to the interview room and continued the interrogation. That continued until 9:27 A.M. when Aman Gas was arrested for rape.

Aman Gas was in custody from the time he left the Hyde residence in handcuffs in a patrol car until he was formally arrested at 9:27 A.M. He had been under the jurisdiction and in the custody of the Pocatello Police Department for a little over four and one half (4 ½ hours). He was offered one glass of water and allowed to have a one cigarette smoke break. He was never offered food. He was never allowed a bathroom break. He was drunk and had only about an hour of sleep. Aman Gas waived his Miranda rights and consented to the buccal swabs and to the SAE exam based upon promises that he could leave and go home.

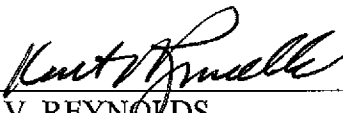
The entire interview, from the time he was placed in handcuffs and placed in a patrol car at the Hyde residence and until he was arrested took place during a custodial interrogation. The

circumstances were oppressive. Even though he had been told he could leave and he was not under arrest, he was in a coercive situation. He believed he could not leave the interview room or he would be arrested. He felt coerced into participating in the interrogation. He felt coerced into signing the right's waiver form. Based upon the circumstances Aman Gas felt he could not leave even though Detective Marshall had stated he could. Aman Gas believed he was in custody. He felt he had to sign the wavier forms in hopes of being allowed to leave. Promises were made to Aman Gas that he signed the waiver and consent and submitted to the buccal swabs he could leave the station and go home. The oppressive circumstances were compounded by the lack of food; compounded by the lack of a bathroom break; compounded by the lack of sleep; compounded by the limited smoking break; compounded by his intoxication. Based upon the totality of the circumstances, the interrogation was in violation of Aman Gas' right against self incrimination, right to have an attorney and his due process rights. The consents, buccal swab and SAE, were waived under duress and coercion. The SAE exam was the fruits of the illegal detention and interrogation. The consent to search was the product of the illegal actions initiated by the police to force Aman Gas to waives his constitutional rights. The SAE consent and exam were the result of coercive police conduct designed to obtain what is alleged to be a knowing, intelligent and voluntary waiver of Aman Gas' rights.

Based upon the foregoing, Defendant respectfully requests the Court to grant the Motion to Suppress and suppressing any and all statements made by Aman Gas and suppressing any and all physical evidence and the test results as the physical evidence was obtained in violation of the Defendant's rights under the Federal Constitution and Idaho Constitution. Aman Gas did not knowingly, intelligently and voluntarily waive his rights and consent to the SAE exam.

Dated this ____ day of April, 2014.

Dated this 21 day of April, 2014.



KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21 day of April, 2014, I served a true and correct copy of the **BRIEF IN SUPPORT OF MOTION TO SUPPRESS** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail Bannock County
☐ Facsimile


KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 APR 23 PM 4:06
BY KH
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE-A
Plaintiff,)	
	)	FOURTH RESPONSE TO
v.	)	DISCOVERY REQUEST
)	
AMAN GAS,)	
)	
Defendant.)	
<hr/>		

TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205

COMES NOW the Defendant, Aman Gas, by and through his attorney, and responds to
the States Request for Discovery as follows:

1. See document attached
4. Troy Albright, RN, PMC, known to the State

Defendant reserves the right to supplement this response prior to trial.

Dated this 23 day of April 2014.




KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE





I HEREBY CERTIFY that on the 23 day of April 2014, I served a true and correct copy of the **FOURTH RESPONSE TO REQUEST FOR DISCOVERY** was served upon the parties below as follows:






Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender











9:29 AM

Meet Me


Prince Adeb...





Prince Adeboye

30, Male



Info

Friends

Photos

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTOR
P. O. BOX P
POCATELLO, IDAHO 83205-0050
Telephone: (208) 236-7289

JaNIECE PRICE, #7161
Asst. Chief Deputy Prosecutor

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 APR 28 AM 11:11
BY KH
DEPUTY CLERK
ORIGINAL

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
AMAN GAS,)
)
Defendant.)
_____)

CASE NO. CR-2013-864-FE-~~1~~

**PLAINTIFF'S RESPONSE BRIEF
IN OPPOSITION TO
DEFENDANT'S MOTION TO
SUPPRESS**

COMES NOW, the State of Idaho, by and through JaNiece Price, Assistant Chief Deputy Prosecuting Attorney for Bannock County, Idaho, and submits this Response Brief in Opposition to Defendant's Motion to Suppress.

ISSUES

1. Whether any statements and evidence obtained must be suppressed due to the Defendant Gas' due process rights being violated?
2. Whether Defendant Gas' was coerced by the officers of the Pocatello Police Department through force, threats and fear?

FACTS

On January 20, 2013 at approximately 3:43 a.m., officers were dispatched to 425 Hyde Avenue, Pocatello, Bannock County, Idaho, in reference to a possible sexual assault which had occurred at that residence. Officers contacted a Raushelle Goodin-Guzman who reported that she had been raped by an individual she identified as Aman Gas.

Officers contacted Aman Gas who was at the Hyde residence. At some point around 4:45 to 5:00 a.m. officers determined to interview Aman Gas and he was transported to the Pocatello Police Department. It can be presented the reasons the Defendant was transported to the Pocatello Police Department were first, to remove him from the scene of the crime; second, that the Defendant may not have had means to get there on his own; and third, possibly he had been drinking and officers being cautious may not have believed it would have been in his best interests to drive a vehicle.

As can be heard on the transport audio from Officer Eldridge's microphone (submitted with the Stipulation of Facts), Aman Gas was not placed under arrest but was just being transported to the police department to be interviewed. Additionally that he was not being placed in handcuffs because he was under arrest or in custody but due to a policy by Officer Eldridge that he placed individuals who were being transported in his patrol car in handcuffs for safety reasons.

Upon arrival at the police department at approximately 5:00 a.m., Aman Gas is escorted to an interview room where he meets with Detective Marshall. Detective Marshall interview Aman Gas about the reported sexual assault on Raushelle Goodin-Guzman. During the interview, Aman Gas is given water and allowed a smoke break.

Furthermore he is provided written Miranda Rights and is given a generous amount of time to review and ask Detective Marshall about that document. Additionally as further information was forthcoming from other officers involved in this investigation, Aman Gas is asked and consents to a buccal swab and a penile swab to obtain DNA from him and on his person. He gives his consent by written and verbal means. After consenting to these types of processes, Aman Gas is buccal swabbed at the police department and then is transported by Officer Lambson to Portneuf Medical Center. Again, per officer policy and as heard on the audio of Officer Lambson's recording device, Aman Gas is handcuffed while in the patrol car for safety reasons but when outside the patrol car he is not cuffed and is told he is not in custody or under arrest. At the hospital, Aman Gas does not have handcuffs on and is free to move around the hospital.

After the penile swab at the hospital, Aman Gas is handcuffed only for transport back to the Pocatello Police Department. He is then back to the interview room, sans handcuffs, and is then engaged in conversation with Detective Marshall again and a short time later placed under arrest for the crime of Rape, Idaho Code §18-6101.

Not until February 2014 well over a year into the case is a Motion to Suppress filed by Defendant's counsel. The State objected to the timeliness of the Motion to Suppress but was overruled by the Court on the grounds that it would be inefficient to not allow the Motion to Suppress to be heard because there could be post-conviction issues later; but the Court did not specifically find that there was excusable neglect nor a strong bases as to why the Defendant failed to file the Motion to Suppress in a timely manner. On April 9, 2014, a Motion to Suppress hearing was held and the matter taken under advisement as the parties submit briefs.

ANALYSIS OF ISSUES

Whether any statements and evidence obtained must be suppressed due to the Defendant Gas' due process rights being violated?

Any statements and evidence obtained through the investigation of Aman Gas in this matter should **not** be suppressed. There was not a violation of Defendant Aman Gas' due process rights. Defendant Gas was not in custody when he was transported from the Hyde residence nor when he was transported to and from Portneuf Medical Center. He was not in custody during his time at the Pocatello Police Department and was not coerced at any time by Pocatello Police officers or detectives prior to being placed under arrest at the end of the interview and investigation process.

At all times Defendant Aman Gas knowingly, voluntarily and intelligently consented to interaction with the officers and was advised of and waived his Miranda rights when speaking with Detective Marshall. "Factors to be considered in determining whether a person was in custody for Miranda purposes include the degree of restraint on the person's freedom of movement including whether the person is placed in handcuffs, whether the person is informed that the detention is more than temporary, the location and visibility of the interrogation, whether other persons were present, the number of questions asked, the duration of the interrogation or detention, the time of the interrogation, the number of officers present, the number of officers involved in the interrogation, the conduct of the officers, and the nature and manner of the questioning." *State v. Silver*, 155 Idaho 29, 304 P.3d 304 (Ct.App. 2013). The burden of showing custody rests on the defendant seeking to exclude evidence based on a failure to administer Miranda warnings. *Id.*

When looking at whether a person is in custody or not, an application of *Miranda v. Arizona* to the circumstances is appropriate. *Miranda v. Arizona* sets forth constitutional rights an individual is afforded when being questioned by police. The United States "Supreme Court held that police must inform individuals of their Fifth Amendment rights prior to conducting 'custodial interrogations.' To determine whether an individual is in custody, 'a court must consider all the circumstances surrounding the interrogation.'" 384 U.S. 436, 16 L.Ed. 2d 694, 86 S. Ct. 1602, 10 Ohio Misc. 9, 36 Ohio Op. 2d 237 (1966), *State v. Doe*, 130 Idaho 811 (Ct. App. 1997), *State v. Doe*, 137 Idaho 519 (2002). Additionally, "custody," for purposes of requirement of Miranda warnings during custodial interrogation, means a formal arrest or restraint on freedom of movement of the degree associated with a formal arrest. *State v. Hurst*, 151 Idaho 430, 258 P.2d 950 (Ct.App. 2011). The test for custody, requiring a Miranda warning, is an objective one, and the only relevant inquiry is how a reasonable man in the suspect's position would have understood his situation. *U.S.C.A. Const.Amend. 5* and *State v. James*, 148 Idaho 574, 225 P.3d 1172 (S.Ct. 2010).

The issues of voluntariness of a defendant's waiver of Miranda Rights and if the defendant is in custody are ones that requires a Court to look at the totality of circumstances surrounding the waiver. In order for a waiver to be constitutionally valid, the waiver must be voluntarily, knowingly and intelligently made. The inquiry into wavier of Miranda rights has two distinct dimensions. First, the relinquishment of the right must have been voluntary that there was a free and deliberate choice rather than intimidation, coercion or deception. Second, the waiver must have been made with a full awareness of both the nature of the right being abandoned and the consequences

of the decision to abandon it. *Moran v. Burbine*, 475 U.S. 412 (S. Ct. 1986).

The State bears the burden of proof by a preponderance of the evidence to show there was a voluntary, knowing, and intelligent waiver of Miranda rights. *State v. Culbertson*, 105 Idaho 128 (1983), *State v. Dunn*, 134 Idaho 165 (Ct. App. 2000). A court when deciding whether the defendant made a knowing and voluntary waiver must determine that there is substantial and competent evidence to support such a finding. *State v. Nguyen*, 122 Idaho 151 (Ct. App. 1992).

When looking to determine if a waiver involved knowing and intelligent actions by the defendant, the waiver should be analyzed to determine whether such waiver was made with full awareness of both the nature of the rights being given up and the possible consequences of the decision to give up those rights. *Moran v. Burbine*, 475 U.S. 412 (1986), *State v. Spriggs-Gore*, 64 P.3d 506 (2003).

To determine whether a confession is voluntary, the Court needs to look at the totality of circumstances to decide whether the defendant's will was overborne. *State v. Radford*, 134 Idaho 187, 191 (2000), *State v. Person*, 140 Idaho 934 (Ct. App. 2004). In addition, "[a]n express written waiver of Miranda rights is strong proof of a voluntary waiver but is not conclusive proof." *State v. Doe*, 137 Idaho 519 (2002).

Furthermore, the Idaho Supreme Court stated in *State v. Kuzmichev*, 132 Idaho 536, 967 P.2d 462 (1999) the following:

"Miranda warnings must be given to a suspect who is subject to custodial interrogation. *Miranda v. Arizona*, 384 U.S. 436, 16 L. Ed. 2d 694, 86 S. Ct. 1602 (1966). The United States Supreme Court explained what it means to be in "custody" for purposes of the *Miranda* requirement in *California v. Beheler*, 463 U.S. 1121, 77 L. Ed. 2d 1275, 103 S. Ct. 3517 (1983), holding that "the ultimate inquiry is simply whether there is a 'formal arrest or restraint on freedom of movement' of the degree

associated with a formal arrest." *Id.* at 1125. Moreover, this standard is an objective test. *Berkemer v. McCarty*, 468 U.S. 420, 442, 82 L. Ed. 2d 317, 104 S. Ct. 3138 (1984). "Under *Berkemer*, the question is *not* whether a reasonable person would believe he was not free to leave, but rather whether such a person would believe he was in police custody of the degree associated with a formal arrest." 1 LaFAVE & ISRAEL, CRIMINAL PROCEDURE § 6.6, at 105 (Supp. 1991) (construing *Berkemer*). This objective standard is applied by looking at the "totality of all the circumstances" surrounding the questioning. *Birkla*, 126 Idaho at 501, 887 P.2d at 46 (quoting *State v. Medrano*, 123 Idaho 114, 117-18, 844 P.2d 1364, 1367-68 (Ct. App. 1992))."

Defendant Gas argues his due process rights were violated in that he was taken into custody and coerced into submitting to being interviewed and providing DNA samples. This argument is not valid. In reviewing the testimony provided at the Motion to Suppress hearing and a review of the audio recordings and written exhibits submitted at the Suppression hearing it can be determined that Aman Gas was not in custody and was not coerced into providing statements or DNA samples. In fact the opposite is true, Detective Marshall and other officers involved in interacting with Aman Gas were very sensitive to his needs. Due to the circumstances of his telling them that he did not understand forms and the process going on, the officers and the Detective took extra time to explain and make sure that Aman was comfortable during his interview and transporting. He was given extra time to review and ask questions about any forms he was asked to sign and also was provided a smoke break during the interview.

For Defendant to claim that he was deprived of food, sleep and interrogated for hours, a review of the recordings and testimony shows that this is an untrue statement. Due to the nature of the offense and the information being gathered and provided by other officers to Detective Marshall there were a few breaks in the interview process. As well as breaks to allow Defendant Gas to peruse forms provided to him and to have a

smoke break. As indicated on the recordings, Aman Gas never asked for food or for a restroom break. The only item of sustenance he did mention in passing to Officer Lambson during the smoke break was the possibility of getting some coffee.

Furthermore, in listening to the recordings it appears that Defendant Gas is coherent and able to understand what is occurring and is not being coerced through tiredness, fear, manipulation or undue influence by officers.

Aman Gas was provided a written and verbal warning of his Miranda rights and it can be determined that his waiver of those rights was done knowingly, intelligently and voluntarily and was not coerced.

The objective test for determining whether an adult is in custody for purposes of Miranda involves giving attention to such factors as the time and place of the interrogation, police conduct and the style and content of the questioning. *State v. Doe*, 130 Idaho 811 (1997) and *State v. Silver*, 155 Idaho 29, 304 P.3d 304 (Ct.App. 2013). This same test is applicable to an individual with some lack of sleep, or one who had consumed alcohol a few hours before the interview, or even individuals with a lower intelligence who may need a bit more time to understand the processes of law enforcement and the law as may be the circumstances in this case.

In looking at the totality of circumstances in our case, it can be determined that Defendant Gas knowingly, intelligently and voluntarily waived his Miranda rights and gave consent of evidence collection at the January 20, 2013 interview even if he may have been limited due to his claim of lack of sleep, food and having been drinking.

In reviewing the recorded interview and other recordings of Defendant Gas on January 20, 2013, this Court can see in the interview at the Pocatello Police

Department, the Defendant converses with Detective Marshall and is able to provide personal information to him and does not make claims of being too tired or too drunk to understand what is happening. As can be seen, Defendant Aman Gas talks with Detective Marshall and carries on a conversation. At one point in the investigation, Defendant Aman Gas is provided a Waiver of Rights form by Detective Marshall. Detective Marshall reviews the rights form with Defendant Aman Gas and it appears that Aman Gas is reading the form along with Detective Marshall. When Defendant Aman Gas is questioned by Detective Marshall as to whether the waiver form makes sense to him, Defendant Aman Gas appears to have some misunderstanding about the form and is given additional time to review it and have it explained to him. After a sufficient amount of time, Defendant Aman Gas acknowledges that he understands the form both verbally and non-verbally. As can be seen, Detective Marshall asks Defendant Gas if he has any questions and again queries to him whether the form makes sense and if Gas is willing to talk to him which Defendant Gas indicates he is willing. Observing this interaction on the video shows that the Defendant is lucid, coherent and responsive to the questions and in watching the video further, it can be seen that Defendant Gas was responsive to the detective and appeared to be calm and coherent during the interview.

In applying the standard of the totality of circumstances to this case and taking into consideration the Defendant's possible concerns with misunderstanding the process or any limitations he claims he may have had due to a lack of sleep and/or alcohol consumption, it can be determined that the totality of circumstances supports that Defendant Gas understood the nature of his rights and waived them voluntarily,

knowingly and as intelligently as he was capable of at the time. Defendant Gas' capacity to understand is a factor to be considered in determining whether his waiver and consent were valid, but alone this is not an indication that he did not understand his rights and did not have the capacity to waive them. The record in this case and the video of the interview reflects that when Defendant Gas was read his Miranda rights and asked if he understood them, he verbally and physically indicated that he did. In addition, Gas showed a willingness to answer questions, although not completely honest and forthright, but during the questioning he was clear, coherent, responsive, fairly relaxed and did not hesitate in asking for clarification when he did not understand a question. He appeared to understand the consequences of talking to the detective and the realization that he needed to be completely honest and not leave out information.

Therefore and based upon the aforementioned argument, this Court should find that Defendant Gas' statements, consenting to and providing DNA, and his waiver of his Miranda rights was valid and done so voluntarily, intelligently and knowingly.

Whether Defendant Gas' statements and providing of evidence to Pocatello Police Department Detective Marshall and Portneuf medical staff was a result of coercion, force, threats and fear?

Gas' conversation and providing of physical evidence to Detective Marshall was voluntary and not a result of police coercion, force, threats or fear.

The United States Constitution guarantees individuals the right against self-incrimination, assistance of counsel and rights to due process of law. The Idaho Constitution also recognizes these rights and affords the same protections to its citizens,

if not greater ones. In addition, since the environment of an interrogation can be inherently intimidating other procedural safeguards have been implemented as measures to insure that any statements by individuals obtained from an individual are the result of that person's free choice and not a result of coercion and badgering. *State v. Silver*, 155 Idaho 29, 304 P.3d 304 (Ct. App. 2013) and *U.S. v. Fry*, 2009 U.S. Dist. LEXIS 51030 (2009).

The courts have determined that in order to find a defendant's statement was not voluntary, the defendant's free will must have been overcome by coercive police conduct at the time of the confession. *Schneckloth v. Bustamonte*, 412 U.S. 218, 225-26, 36 L. Ed. 2d 854, 93 S. Ct. 2041 (1973); *State v. Wilson*, 126 Idaho 926, 929, 894 P.2d 159, 162 (Ct. App. 1995). If the defendant's free will is undermined by threats or through direct or implied promises, then the statement is not voluntary and is inadmissible. *Wilson*, 126 Idaho at 929, 894 P.2d at 162.

"Coercive police activity is a necessary predicate to finding that a confession is not 'voluntary' within the meaning of the due process clause" of the Fourteenth Amendment of the United State Constitution. *Colorado v. Connelly*, 479 U.S. 157 (1986), *Illinois v. Braggs*, 335 Ill. App.3d 52 (2002).

The State bears the burden by a preponderance of the evidence to demonstrate the admissibility of a confession as well as its voluntariness. *State v. Culbertson*, 105 Idaho 128 (1983), *State v. Dunn*, 134 Idaho 165 (Ct. App. 2000).

Idaho law provides that "to determine whether a confession is voluntary, the court looks to the 'totality of circumstances' to determine 'whether the defendant's will was overborne.'" *State v. Radford*, 134 Idaho 187 (2000). There are factors that are to

be considered when assessing the voluntariness of a confession and/or statements.

State v. Doe lists these factors as follows:

- (1) Whether Miranda warnings were given;
- (2) The youth of the accused;
- (3) The accused's level of education or low intelligence;
- (4) The length of the detention;
- (5) The repeated and prolonged nature of the questioning; and
- (6) Deprivation of food or sleep.

137 Idaho 519 (2002), *State v. Troy*, 124 Idaho 211, 214, 858 p.2D 750, 753 (1993) (citing *Schneckloth v. Bustamonte*, 412 U.S. 218, 226, 36 L.Ed.2d 854, 93 S. Ct. 2041, (1973)). *State v. Radford*, 134 Idaho 187 (2000).

Defendant argues that when applying a few of these factors to Gas' January 20, 2013 interview and his consent to providing physical evidence was involuntary and the result of police coercion, force, threats and fears. The State respectively disagrees.

When applying the *Doe* factors to Gas' case it can be determined based upon the totality of circumstances that Gas' statements and providing of DNA samples was voluntary and therefore admissible.

As previously discussed, Gas was never in custody nor were his due process rights violated. The interview and providing of DNA samples was consensual and not the result of any coercion by the police department. Additionally as the investigation progressed and as additional information was provided to Detective Marshall, Gas was eventually provided Miranda warnings in written format as well as written consent forms, which was explained to him and he was given time to review and ask questions about.

This information, Miranda and consent forms, were given both in written form and verbal form. As reflected on the recorded interview, Detective Marshall goes through the Miranda warning form and consent form with Gas and it seems that Gas reads and reviews the forms. When Detective Marshall asks Gas if he has questions about the forms Detective Marshall took time to address those questions and concerns that Gas expressed, if any. Furthermore as shown on the interview room recording, Gas is allowed time within which to review forms submitted to him and during such times is left in the room without any presence of police.

Defendant contends that Gas' statements and agreement to provide DNA samples were not voluntary because he was coerced by the police and was in custody. As can be found by this court in reviewing the evidence presented to it, Defendant Gas was not in custody and was free to leave. He was advised a number of times that he was not under arrest and there was not any coercive tactics by police or the detective. In the video it can be seen that Gas is in a relaxed seated position throughout the interview and relaxed during his transporting by officers.

As can be heard in the recordings from the investigation with Defendant Gas, there were never any statements by Gas about wanting to leave or any statements that were unambiguous and clear requests to terminate the interview. *State v. Whipple*, 134 Idaho 498 (Ct. App. 2000). Furthermore there was not any promises made by officers that they would allow Defendant Gas to leave if he would just cooperate.

As testified to by the detective at the suppression hearing based upon his training and experience as well as his interactions with Gas, the detective testified that Gas' comments and statements were voluntary and were not ever unambiguous and

clear requests that he wanted to leave and that he wanted detectives to stop questioning or interviewing him. *State v. Davis*, 512 U.S. 452, 458, 114 S.Ct. 2350 (1994), *State v. Eby*, 136 Idaho 534, 537, 37. P.3d 628 (Ct. App. 2001).

When looking as to the length of the detention and the nature of the interview, it can be seen that there is a coherent conversation taking place between Gas and the detective. Concededly, the detective did at times have to ask a same or similar question a second or third time to Gas but this is common in investigations of this nature due to an individual's initial attempts to minimize and deceive officers. At no time during the approximate three and a half-hour to four hour interview and transportation of Gas was there any coercion or force by detectives and the interview was not excessive in length. The length of time that the Defendant was involved with law enforcement included times frames of reviewing forms; a smoke break; a buccal swab; and transportation from the Hyde residence and to and from the police department to the hospital. During this time the Defendant was not constantly being interrogated by officers as Defendant's counsel would have this Court believe. As provided for in *Radford*, an interview lasting two hours is not an excessive length of time. *State v. Radford*, 134 Idaho 187 (2000).

Furthermore, as reflected on the recorded interview, Gas was not shouted down, peppered with questions or intimidated by officers as Defendant contends. Specifically when looking at the portion of the interview where Gas comments about being unsure about the Miranda Rights form, Detective Marshall stops all questioning and instead explains the contents of the form. At no time was there any coercion, force, threats or deprivations by the detective. As well as Defendant's argument that because there are

Plaintiff's Response Brief in Opposition to Defendants Motion to Suppress

officers outside the interview room and the Defendant may have heard those officers and hearing such officers meant the Defendant is in custody can be seen as being a stretch by which to try and persuade this court that the Defendant was in custody and his due process rights were being violated. Such an argument is flaky and unpersuasive.

Defendant argues that because of his supposed lack of sleep and having consumed some alcohol and a lack of supposed amenities being provided to him that this court should suppress his interview statements and any evidence obtained because at the time it was made it was not with his rational intellect or his free will. This argument has no validity.

As previously analyzed with regards to the Miranda waiver, these types of factors can be taken into account but they do not necessarily mean that a person did not have the capacity to make a voluntary and knowing statement and/or confession to officers; nor voluntarily consent to providing verbal and/or physical evidence to officers. Courts have recognized that "a diminished (intellectual, physical, emotional) capacity does not, alone, vitiate the ability to knowingly and intelligently waive constitutional rights and make a free and voluntary confession. *State v. Dunn*, 134 Idaho 165 (Ct. App. 2000). The critical factor is whether the defendant was able to understand the rights explained to him and voluntarily give a statement." *State of Louisiana v. Raiford*, 846 So.2d 913 (2003), *State v. Radford*, 134 Idaho 187 (2000).

As has been shown, the defendant voluntarily went to the police station on January 20, 2013; the defendant was not handcuffed at the police station; the defendant was informed at various times by Officer Eldridge, Detective Marshall and

Plaintiff's Response Brief in Opposition to Defendants Motion to Suppress

Officer Lambson that he was not under arrest and that he was free to leave the interview at any point; the defendant was in an interview room which was not locked; the defendant was seated next to the exit door to the interview room; and there was only one officer in the interview room with him.

During the interview the Defendant, Gas, an independent adult male, appears to be making rational decisions of his own free will. He was able to speak in full sentences and put together full thoughts and explanation of the questions asked of him by the detective. In fact, during this interview, Detective Marshall as per training and experience, avoided discussing any of the details of the actual investigation with Gas and instead focused more on asking Gas to provide details, which Gas was able to do in a fairly clear and coherent manner.

As can be determined when applying the *Doe* factors to the present case, Gas was not subjected to a lengthy detention or deprivation of food or sleep. In contrast, his detention was minimal in time and detectives treated him respectfully. His argument that there was repeated and prolonged nature of questioning during the interview lacks foundation due to the fact that as testified to and argued, investigations into this type of allegations generally take more time and involve questioning that may be repetitive at times because of the details and an accused individual's attempts to minimize, hide and deceive officers. As shown though, there is not constant peppering and shouting on the part of the detective. In fact, the interview appears to have an atmosphere of cordiality and respect; as well as accommodation for a smoke break for Gas. Furthermore, Gas can be found to be alert, coherent and involved in a conversation with the detective.

There is no evidence showing Gas is lacking in his comprehension of the

circumstances and what rights he has during the interview and obtaining of physical evidence. Additionally, there is no undue coercion being asserted against Gas.

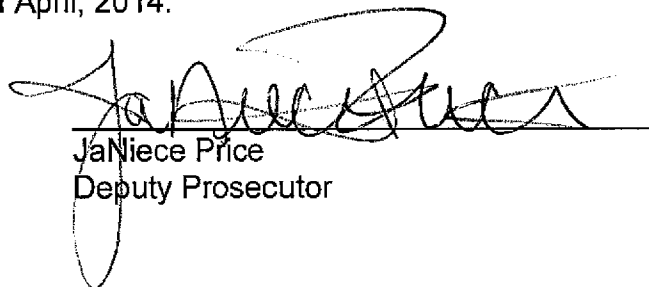
Clearly it can be determined under the factors of *Doe* and in reviewing the totality of circumstances that any statements by Gas were made voluntarily and were done while he wasn't in custody and also after he had voluntarily, knowingly and intelligently waived his Miranda rights. Furthermore that Gas voluntarily consented to provide DNA through a buccal swab and through a penile swab and did so without any coercion or undue influence by the police.

CONCLUSION

As the facts in this case show, the defendant's statements and providing of DNA samples were done voluntarily and with the Defendant's consent. Such actions by Gas were made by defendant's own free will and were not elicited in any fashion contrary to his Fourth, and/or Fifth, and/or Fourteenth Amendment rights, Defendant's Motion to Suppress should be denied.

Based upon the record before the Court, the testimony at the Motion to Suppress and the Plaintiff's Response Brief to Defendant's Motion to Suppress the State respectfully requests the Court deny Defendant's Motion to Suppress.

DATED this 28th day of April, 2014.

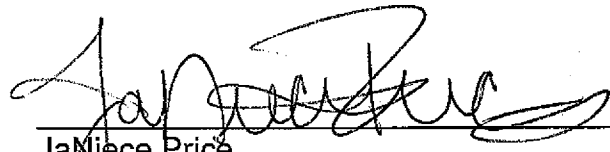

Janiece Price
Deputy Prosecutor

CERTIFICATE OF DELIVERY

I **HEREBY CERTIFY** That on this 28th day of April, 2014, a true and correct copy of the foregoing PLAINTIFF'S RESPONSE BRIEF IN OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS was delivered to the following:

KENT REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile



Janiece Price
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 APR 30 PM 2:16
BY hjt
DEPUTY CLERK

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN GAS,

Defendant.

MINUTE ENTRY & ORDER

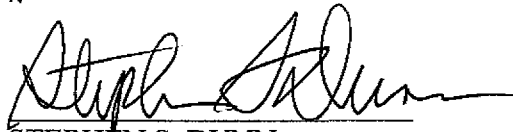
On April 28, 2014, the above named Defendant appeared in Court with his counsel, Kent V. Reynolds, for a hearing on the State's Motion to Quash Subpoena Duces Tecum. Stephen Herzog, Bannock County Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheri Nothelphim performed as Court Reporter for this proceeding.

The Court heard argument from counsel for the Defendant and the State regarding the Motion.

The Court advised counsel for the Defendant to be more specific in their request. The Court denied the State's Motion to Quash Subpoena Duces Tecum .

DATED April 28, 2014.


STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30 day of April, 2014, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

- ☐ U.S. Mail
- ☒ Email
- ☐ Hand Deliver
- ☐ Facsimile

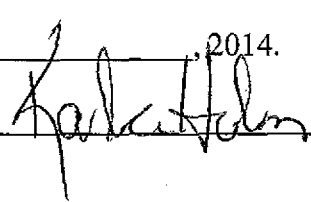
Kent V. Reynolds
Bannock County Public Defender

- ☐ U.S. Mail
- ☒ Email
- ☐ Hand Deliver
- ☐ Facsimile

Bannock County Jail

- ☐ U.S. Mail
- ☐ Email
- ☒ Hand Deliver
- ☐ Facsimile

DATED this 30 day of April, 2014.



Deputy Clerk

FILED
BAMMOCK COUNTY
CLERK OF THE COURT
2014 MAY -1 PM 3:54
BY ALL
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

CASE NO. CR-2013-864-FE (A)

SEVENTH DISCOVERY MOTION

Defendant.

Comes now the Defendant, Aman Gas, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

- Seventh Discovery Motion**
Page - 1

Location where sample was obtained

Identification numbers for the sample

Date sent to Idaho State Forensic Lab

Date Received

Who received the sample

2. Regarding sample taken from Abhishek Dwivedi, Sample 3, please provide the following information:

Who took the sample if it was other than Detective Marshall

Identification numbers for the sample

Date sent to Idaho State Forensic Lab

Date Received

Who received the sample

3. Please disclose the following regarding Sample 3, Abhishek Dwivedi:


Current location

When it was sent to the State Forensic Lab

If returned to Pocatello Police Department, date it was returned and current locker number.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 7 day of May, 2014.


KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 7 day of May, 2014, I served a true and correct copy of the **SEVENTH DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail Bannock County
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Deputy Public Defender

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 7 11:54 PM
BY KLL
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,	)	CASE NO. CR-2013-864-FE (A)
)	
Plaintiff,)	
)	
vs.	)	EIGHTH DISCOVERY MOTION
)	
AMAN GAS,)	
)	
Defendant.)	
<hr/>		

**TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205**

Comes now the Defendant, Aman Gas, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Please identify which officer wrote the attached officer notes and the time of the interview and the location of the interview.
2. Please provide a copy of any and all Spillman records for Abhishek Dwivedvi

Eighth Discovery Motion
Page - 1

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 1 day of May, 2014.



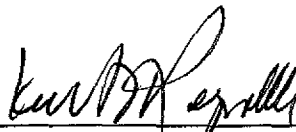
KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 1 day of May, 2014, I served a true and correct copy of the **EIGHTH DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail Bannock County
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Deputy Public Defender

10/7/84 137-1084
Anderson M Ogella

~~Revised 10/90
Jahy 2 married guys
Take 4 Abby
I 10:00 - got back
20:30 went to Abby's, he
picked him up
2 coronas and a shot
fill a deep comb
+ 25:50 Ammon got home
Ammon sleeps on couch,~~

Marjorie R. Harrison
9/10/85

Abby & DDC 7130
called
3.12, 3.13, 3.31
↑
B called Abby
APD: 28 yea

Abby 30

13-101084

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY -2 PM 3:58
BY KV
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

)
) **CASE NO. CR-2013-864-FE-A**
)
) **NOTICE OF ALIBI DEFENSE**
)
)
)
)
)
)

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V. Reynolds, Deputy Public Defender, and pursuant to Rule 12.1, Idaho Criminal Rules, and Idaho Code §19-519(1) and (5), and hereby gives notice of alibi defense.

Defendant gives notice that on the date of the alleged offense, the Defendant was at the bar, Hooligans, 123 N. 3rd, Pocatello, Idaho.

The Defendant, Officer Marshall, Officer Shutes and/or other PPD officers involved in the investigation, Adrian Smart, Monique Hamblin and Ms. Ogolla will testify in support of the alibi defense. Defendant is continuing its investigation which may lead to the identification of other

Notice of Alibi Defense
Page 1

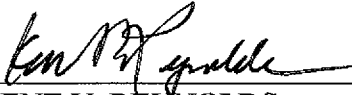
witnesses to support the alibi defense. Investigation is ongoing and additional witnesses will be disclosed upon confirmation of the person's identity.

In addition, the State is already on notice of facts that would support this alibi claim based upon the State's responses to discovery. The alleged victim indicated that the crime occurred at 11:30 P.M. on January 19, 2013, then claimed that it occurred sometime in close proximity to the time she contacted her father, at or around 3:21 A.M. on January 20, 2013. All this information is set forth in the State's discovery responses and in the Preliminary Hearing Transcript. In addition, the disclosure of this information is contained in the State's Response to Discovery, which include the Ogolla Interview, the Aman Gas Interview, the Evidence Disk and other materials produced by the State.

In addition, pursuant to I.C. §18-905(5), the court can find good cause for a late disclosure of the alibi notice as there is no prejudice to the State as the State has had knowledge of this information since the case was filed.

Defendant reserves the right to supplement this notice prior to trial.

DATED this 2 day of May, 2014.



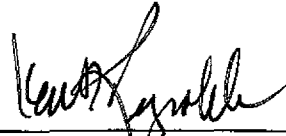
KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2 day of May, 2014, I served a true and correct copy of the **NOTICE OF ALIBI DEFENSE** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile



KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 MAY -5 AM 5:23

BY KH
DEPUTY CLERK

Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE-A
Plaintiff,)	
	)	SIXTH RESPONSE TO
v.	)	DISCOVERY REQUEST
)	
AMAN GAS,)	
)	
Defendant.)	
_____)	

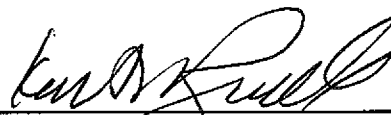
TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205

COMES NOW the Defendant, Aman Gas, by and through his attorney, and responds to
the States Request for Discovery as follows:

1. photographs of interior and exterior of house

Defendant reserves the right to supplement this response prior to trial.

Dated this: 5 day of May 2014.



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

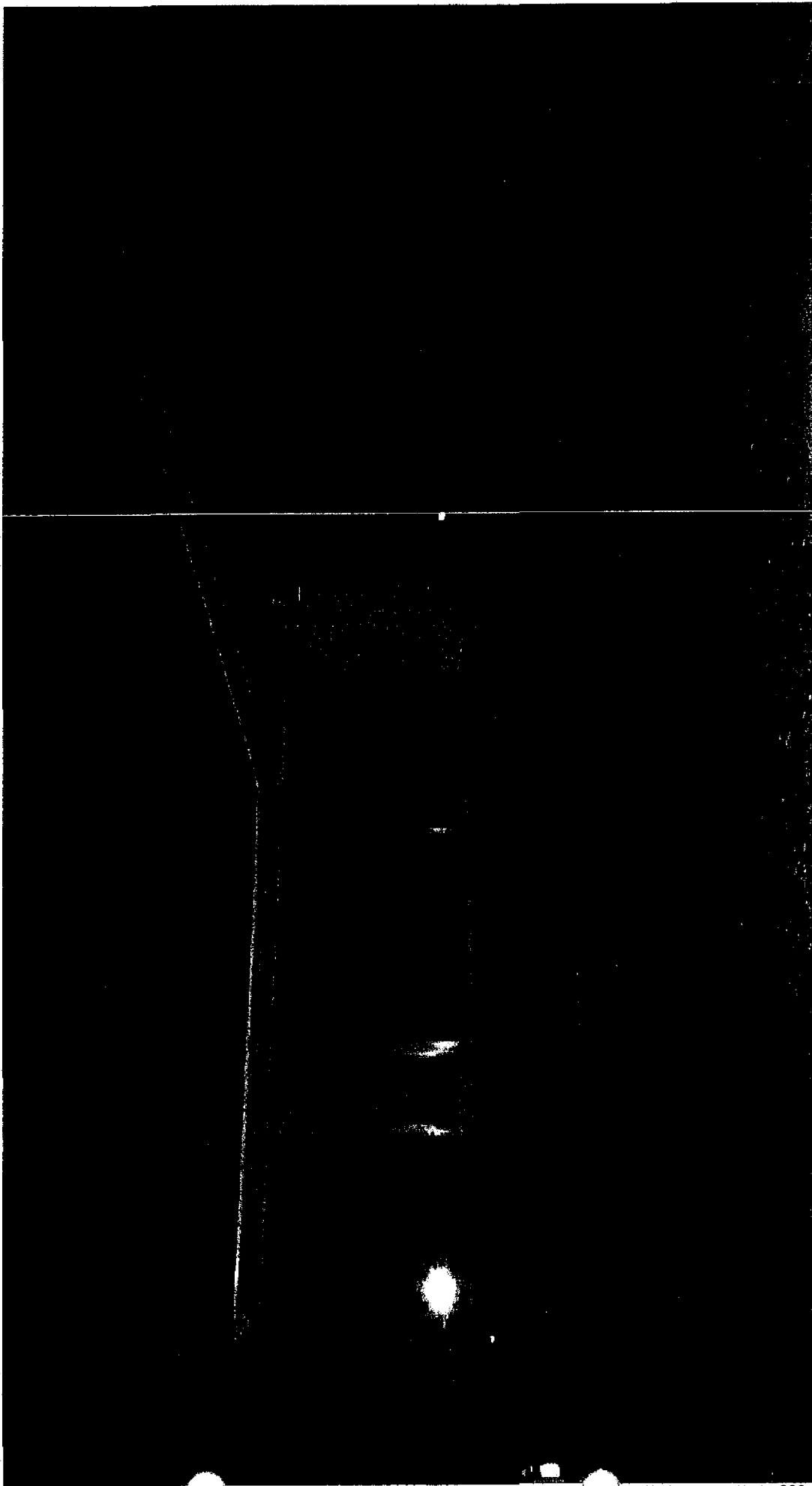
CERTIFICATE OF SERVICE

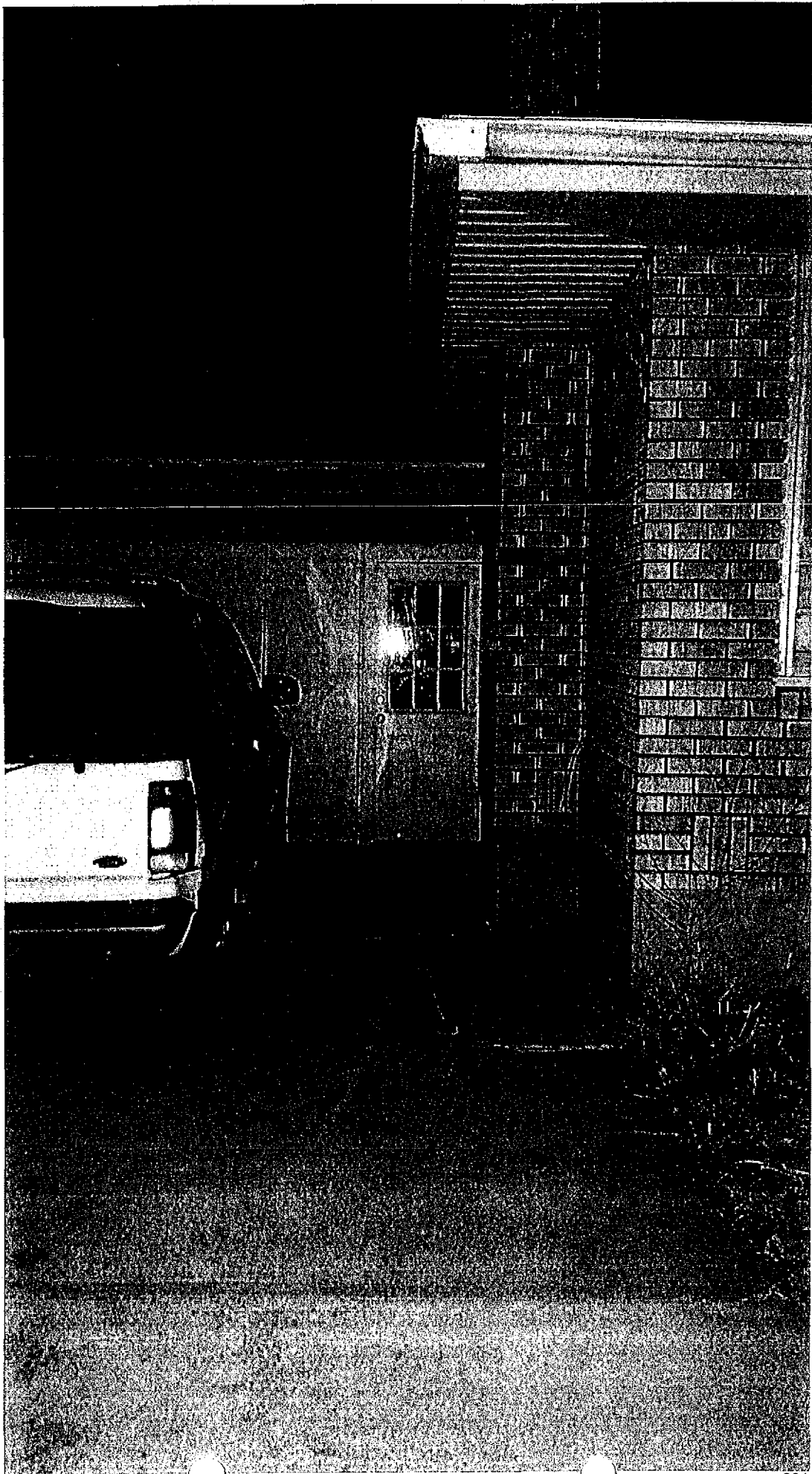
I HEREBY CERTIFY that on the 5 day of May 2014, I served a true and correct copy of the **SIXTH RESPONSE TO REQUEST FOR DISCOVERY** was served upon the parties below as follows:

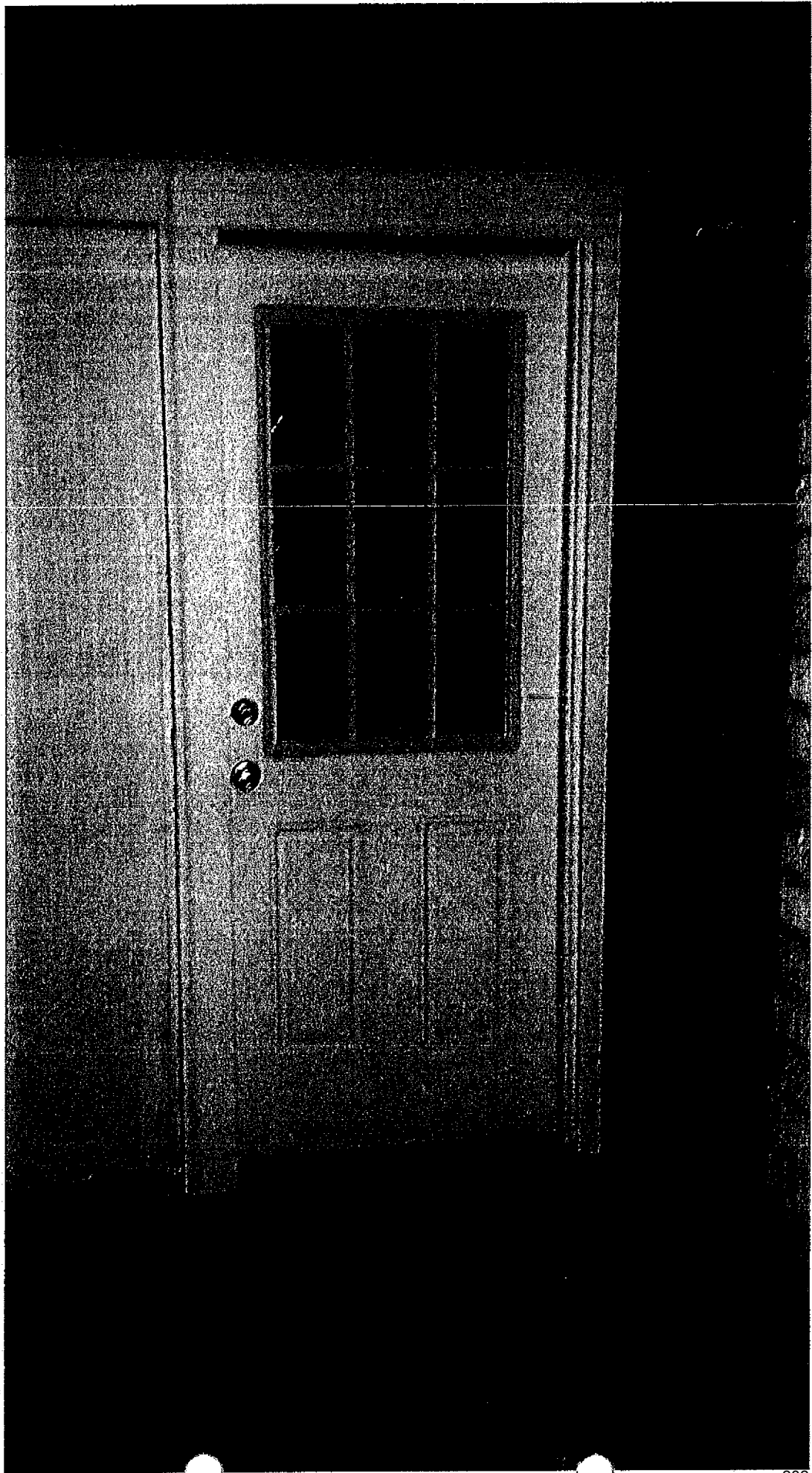
Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

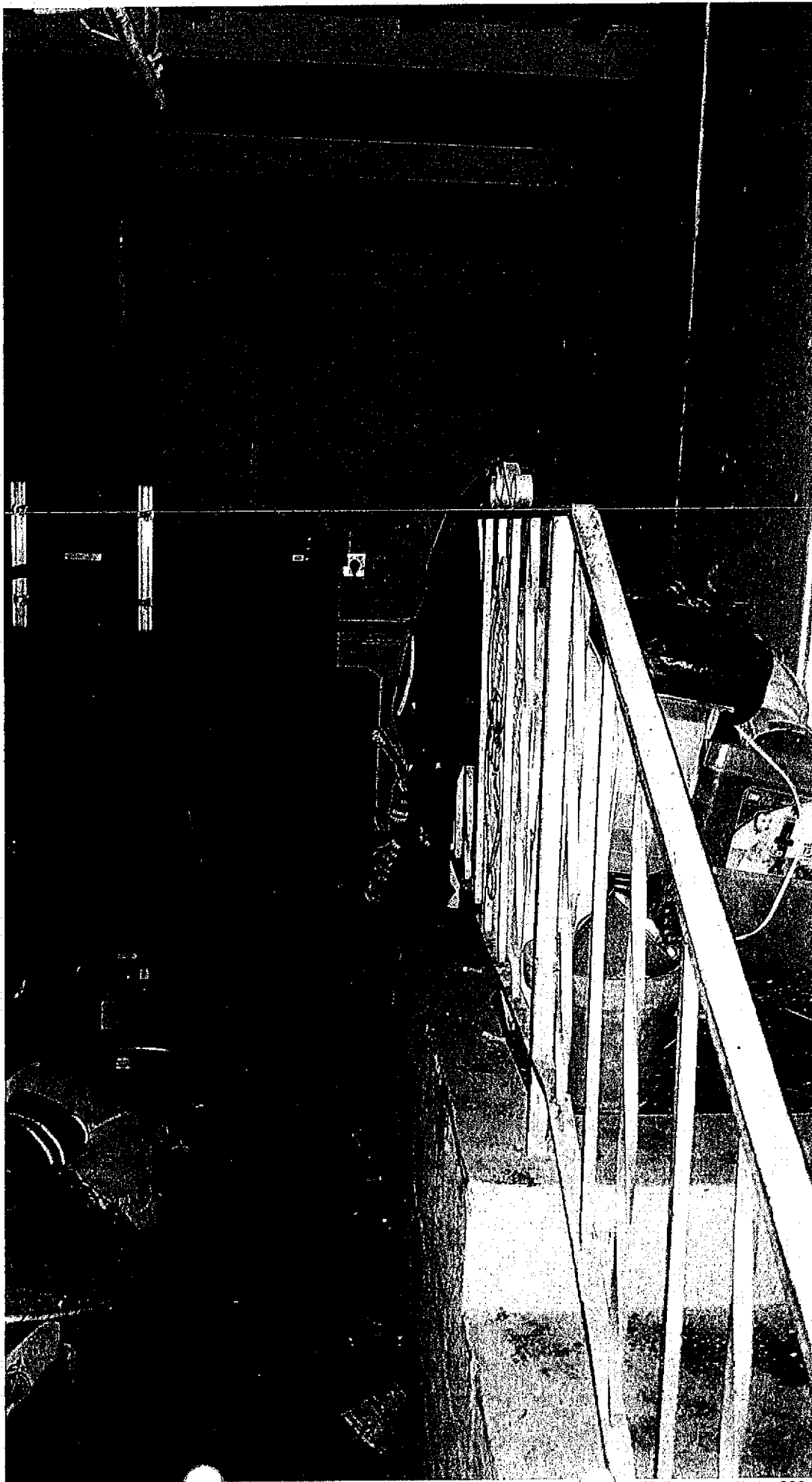
☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender







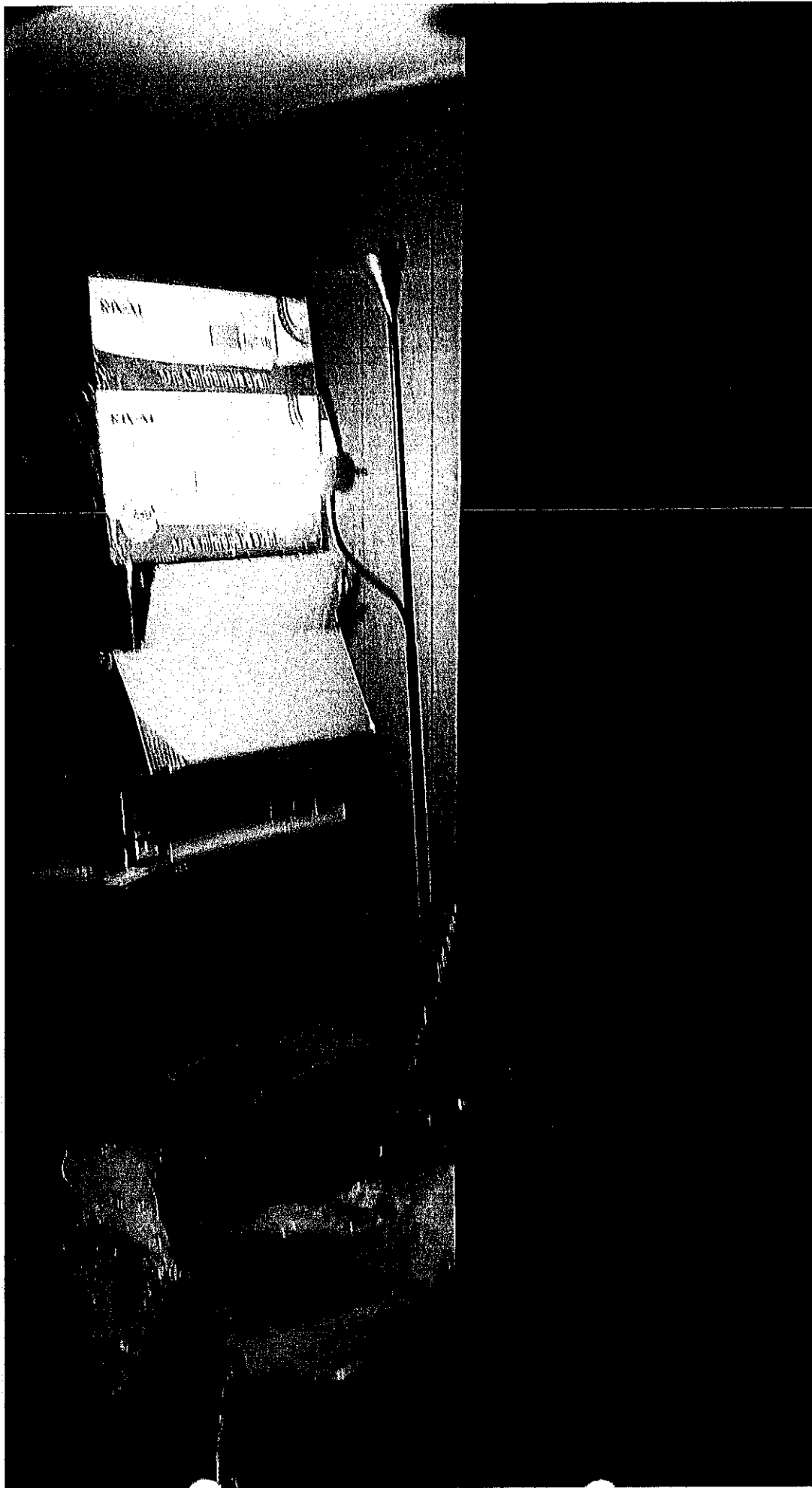


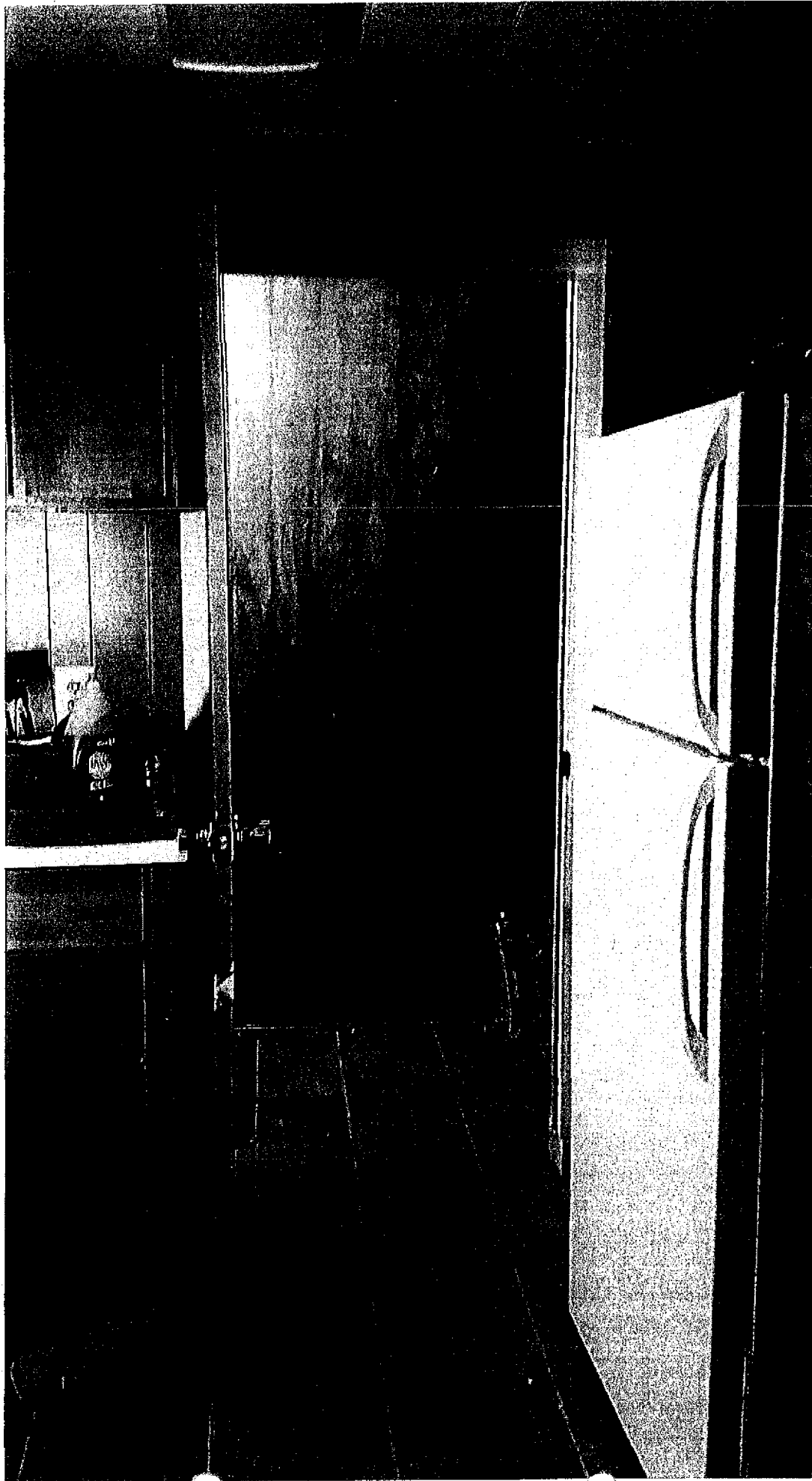


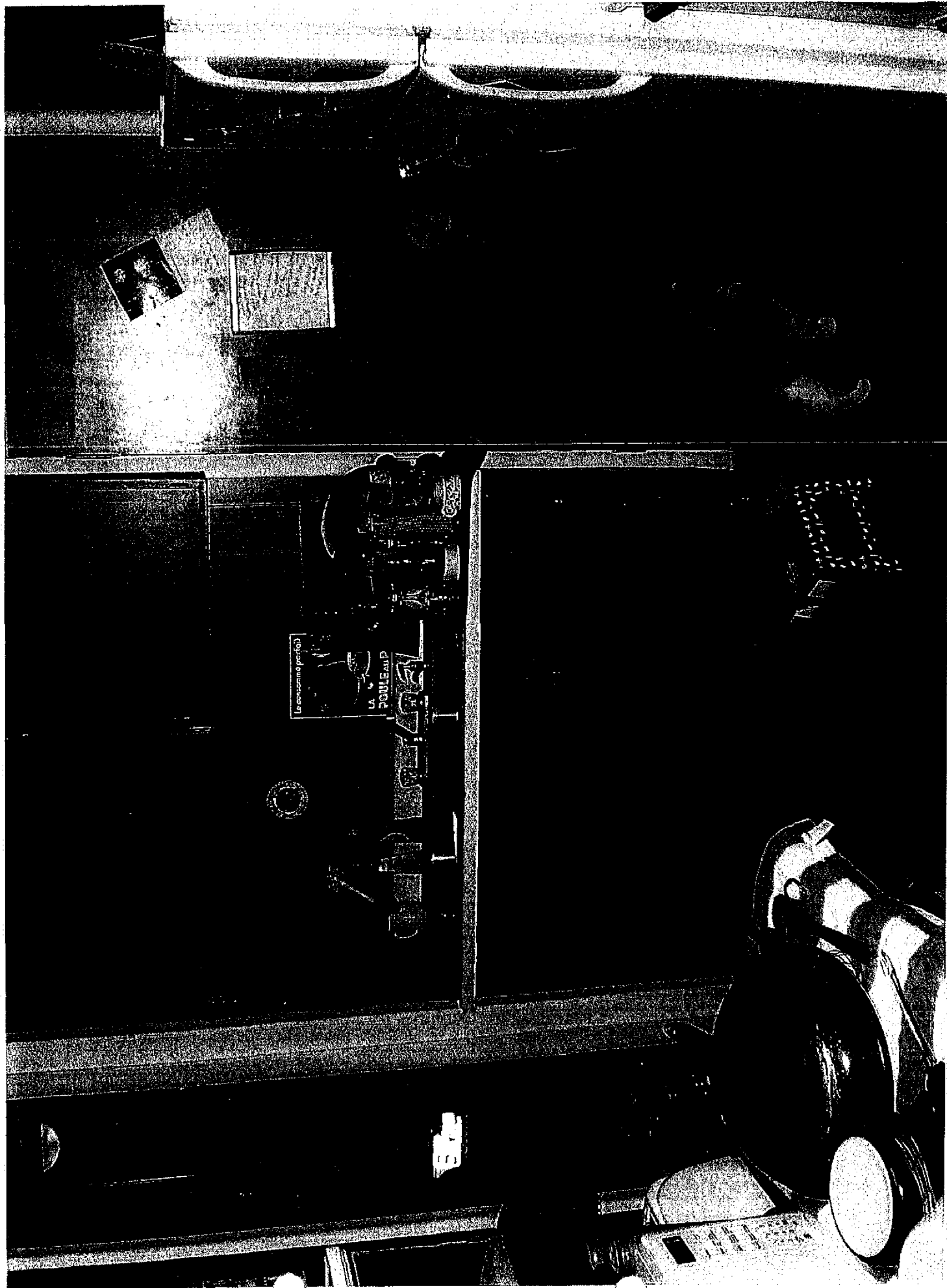




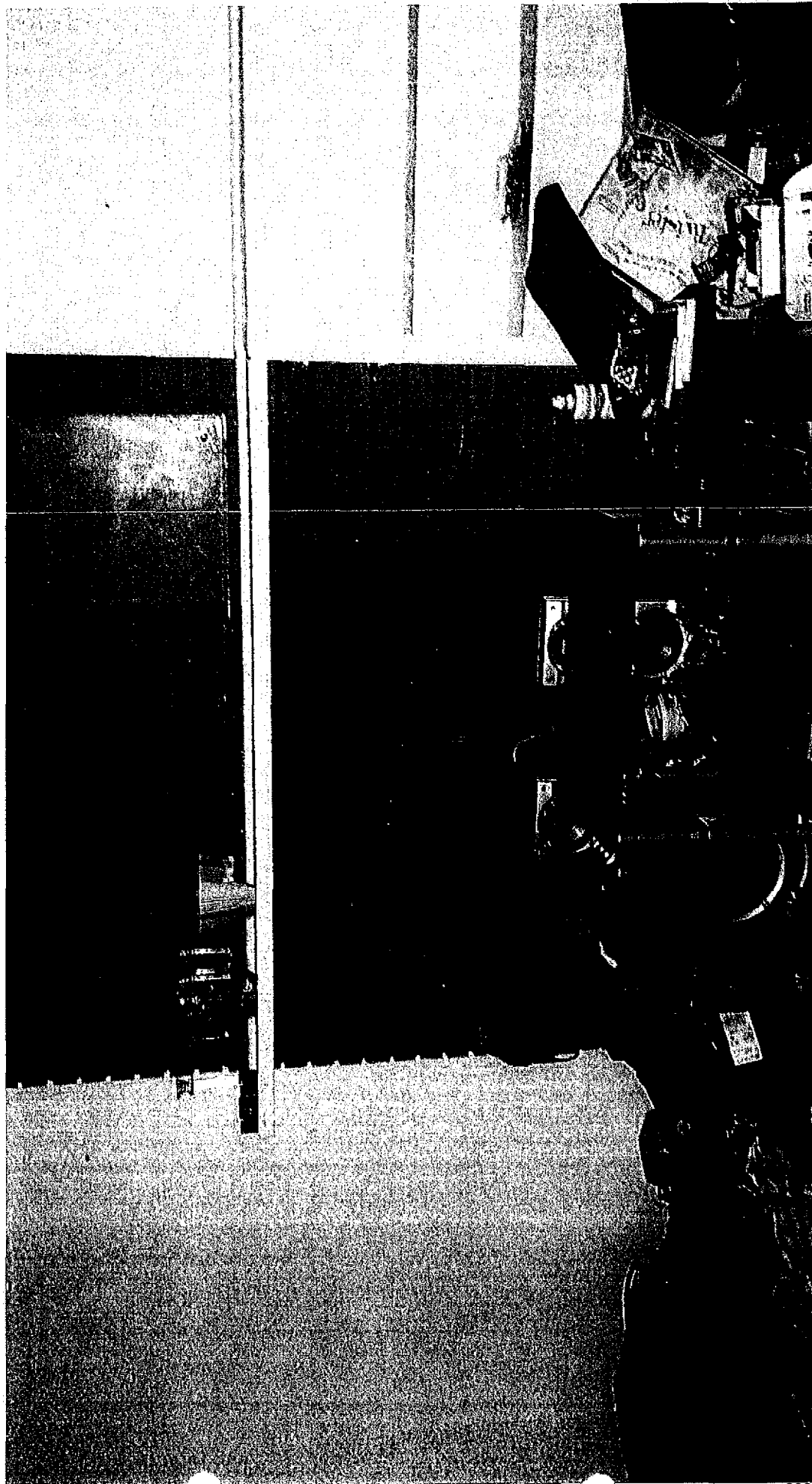


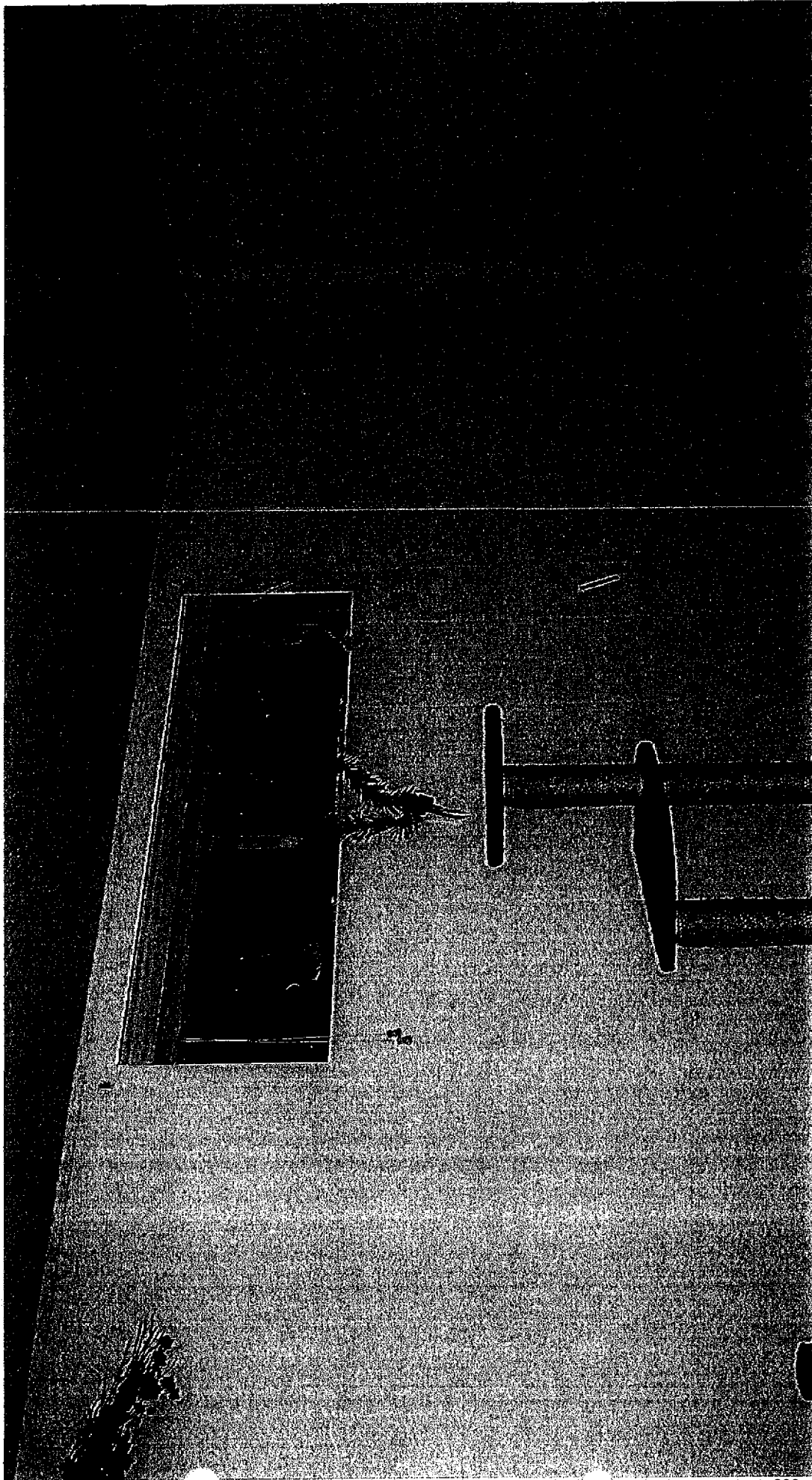




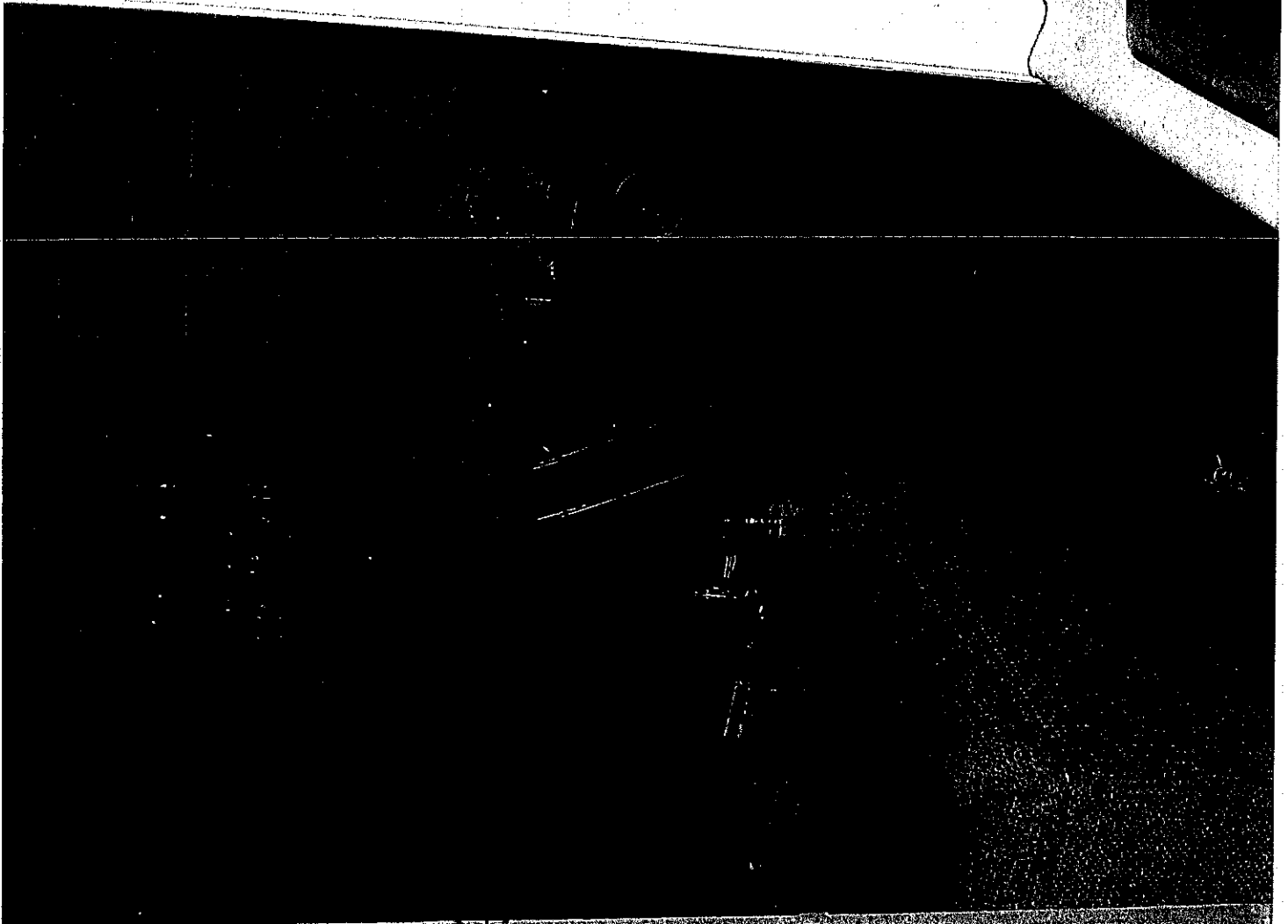
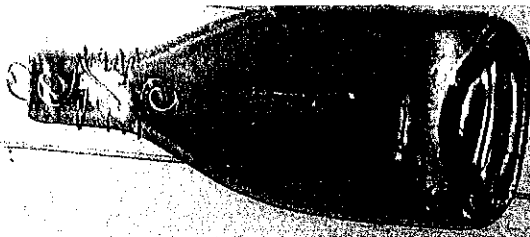


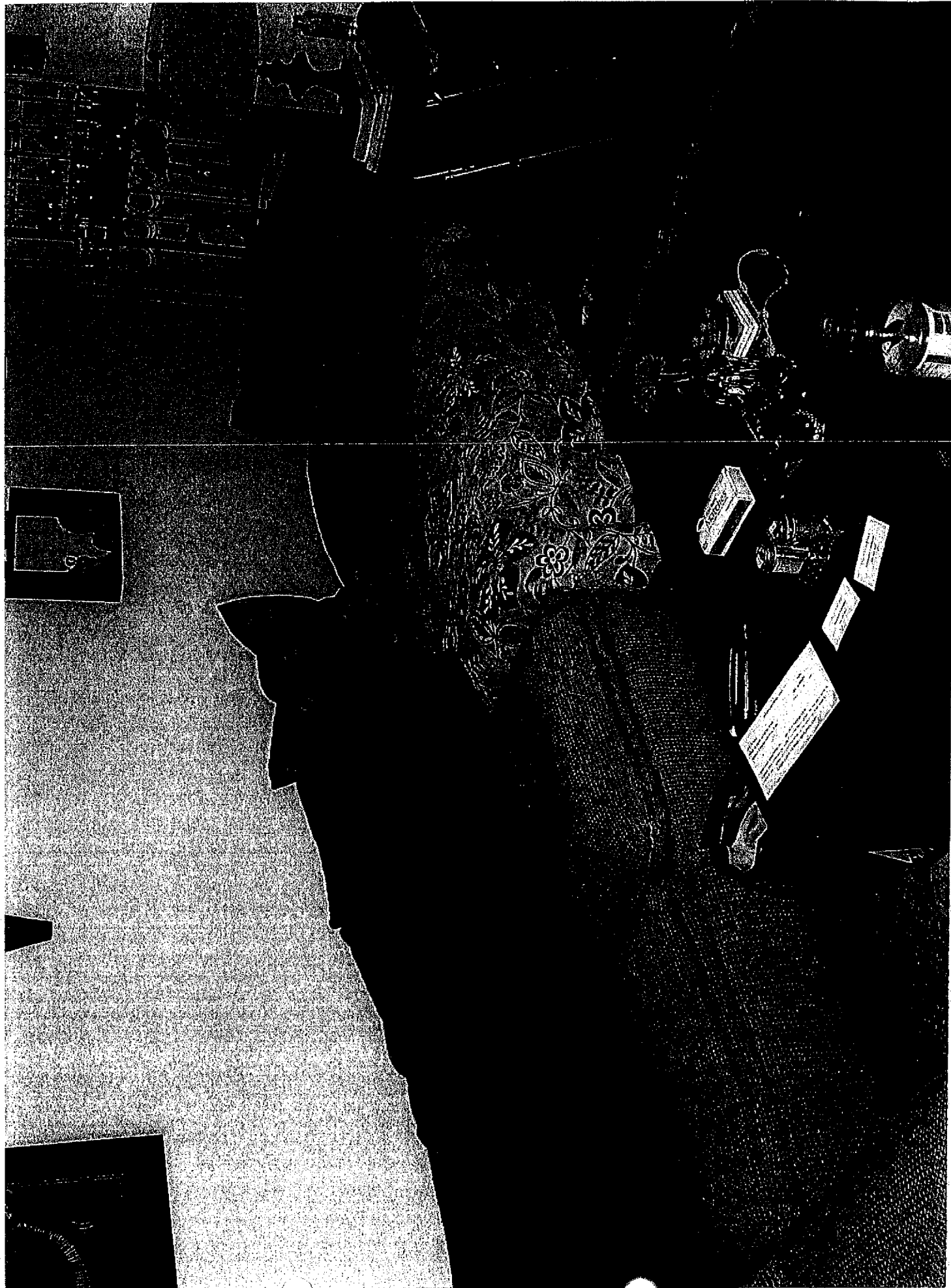


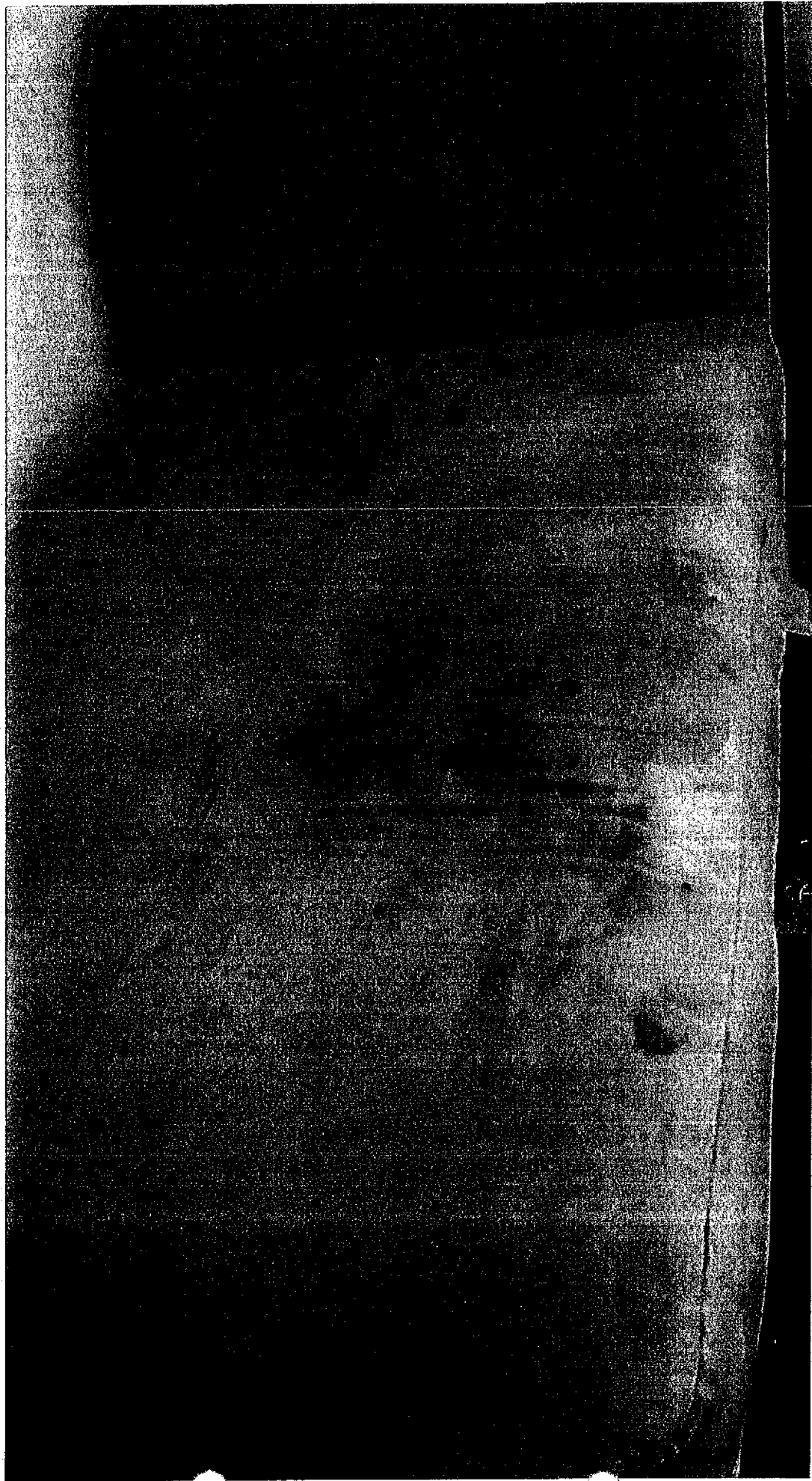


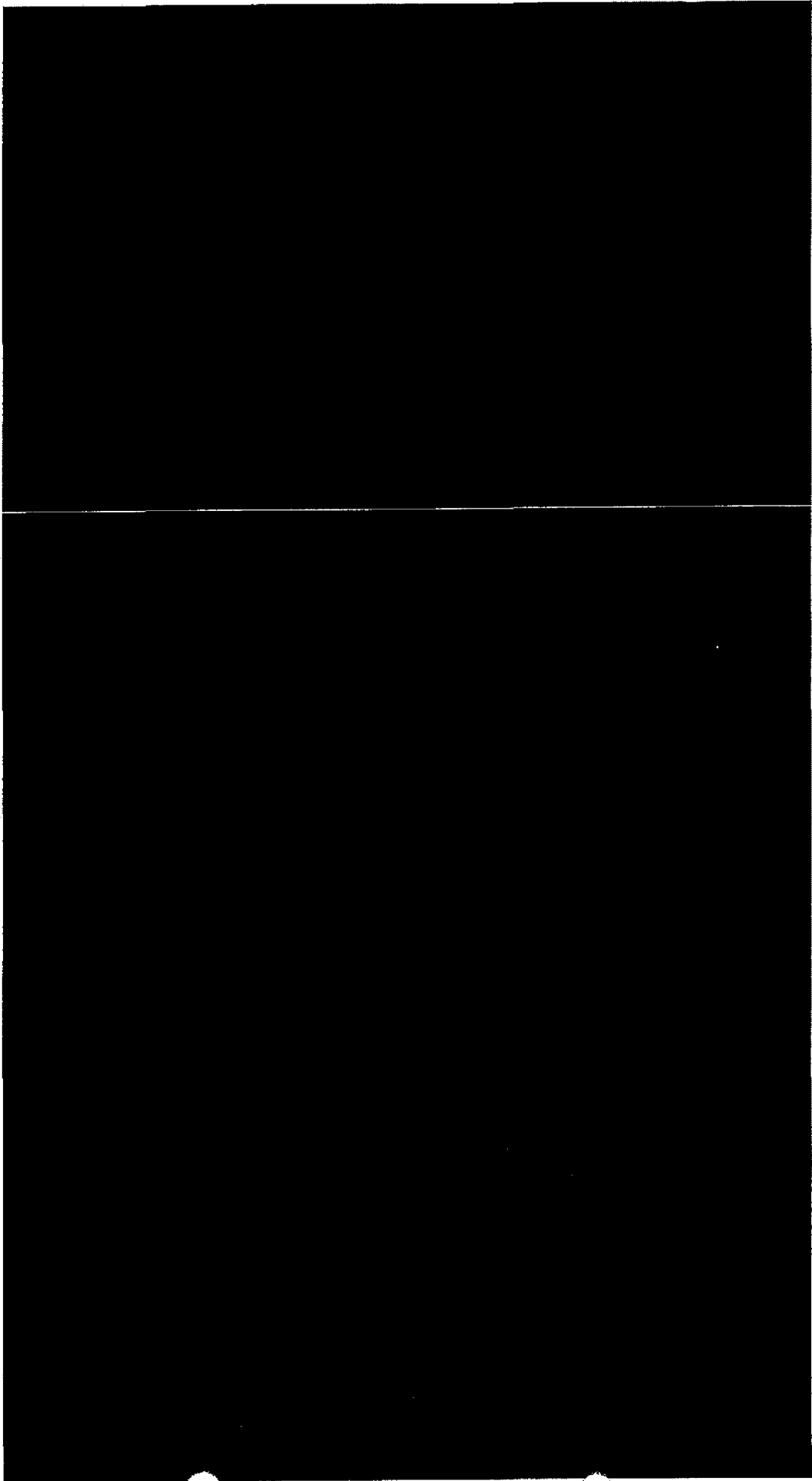


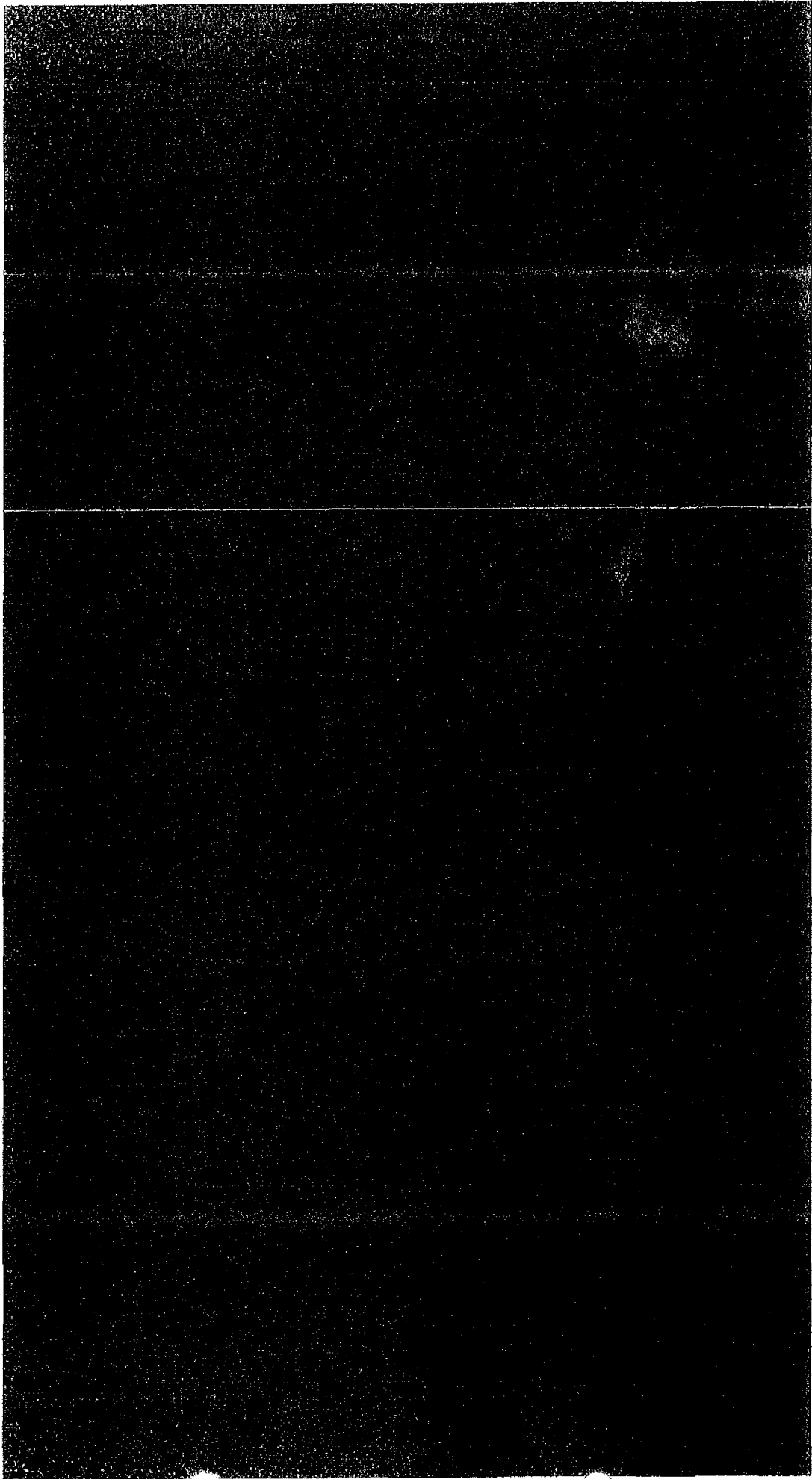




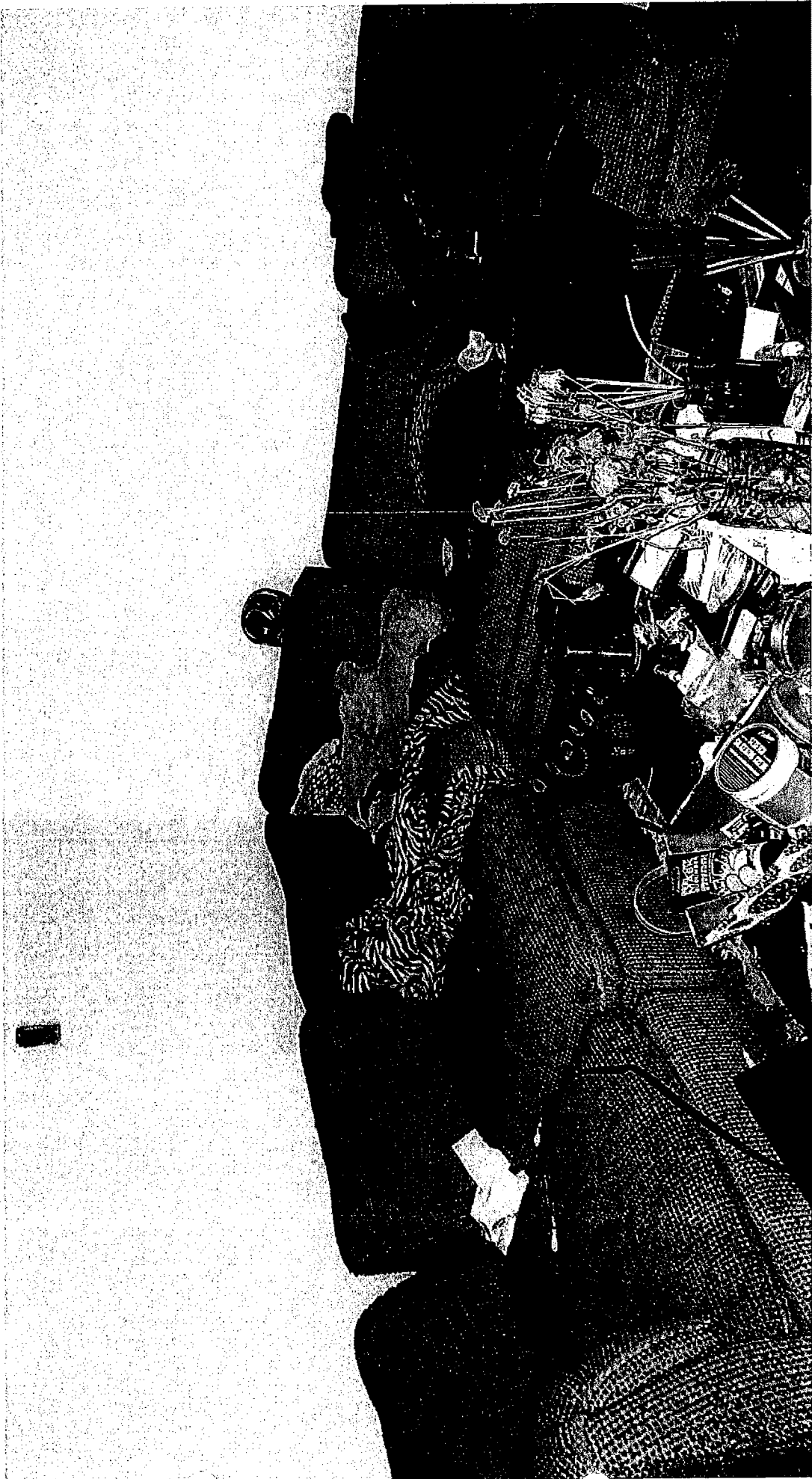


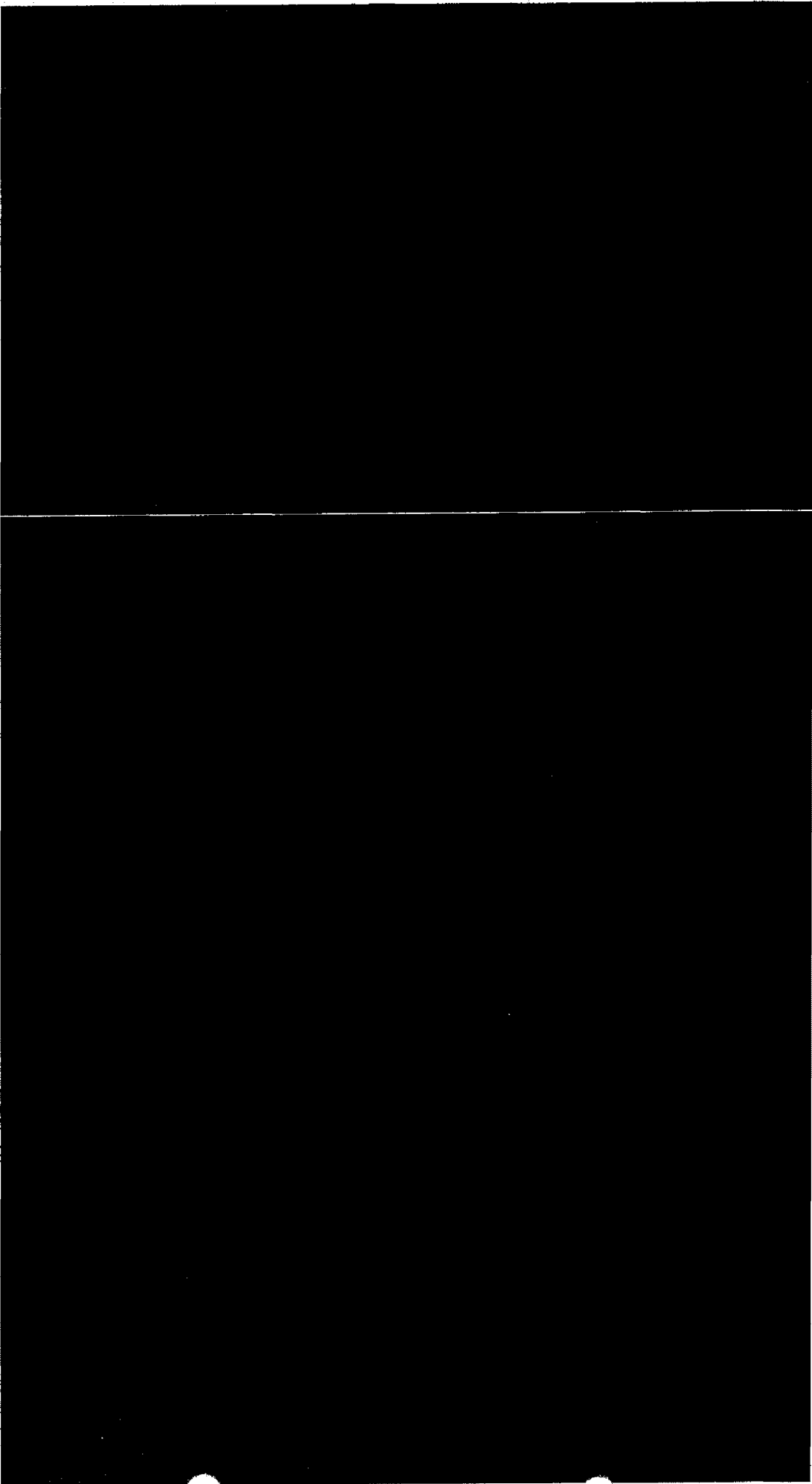




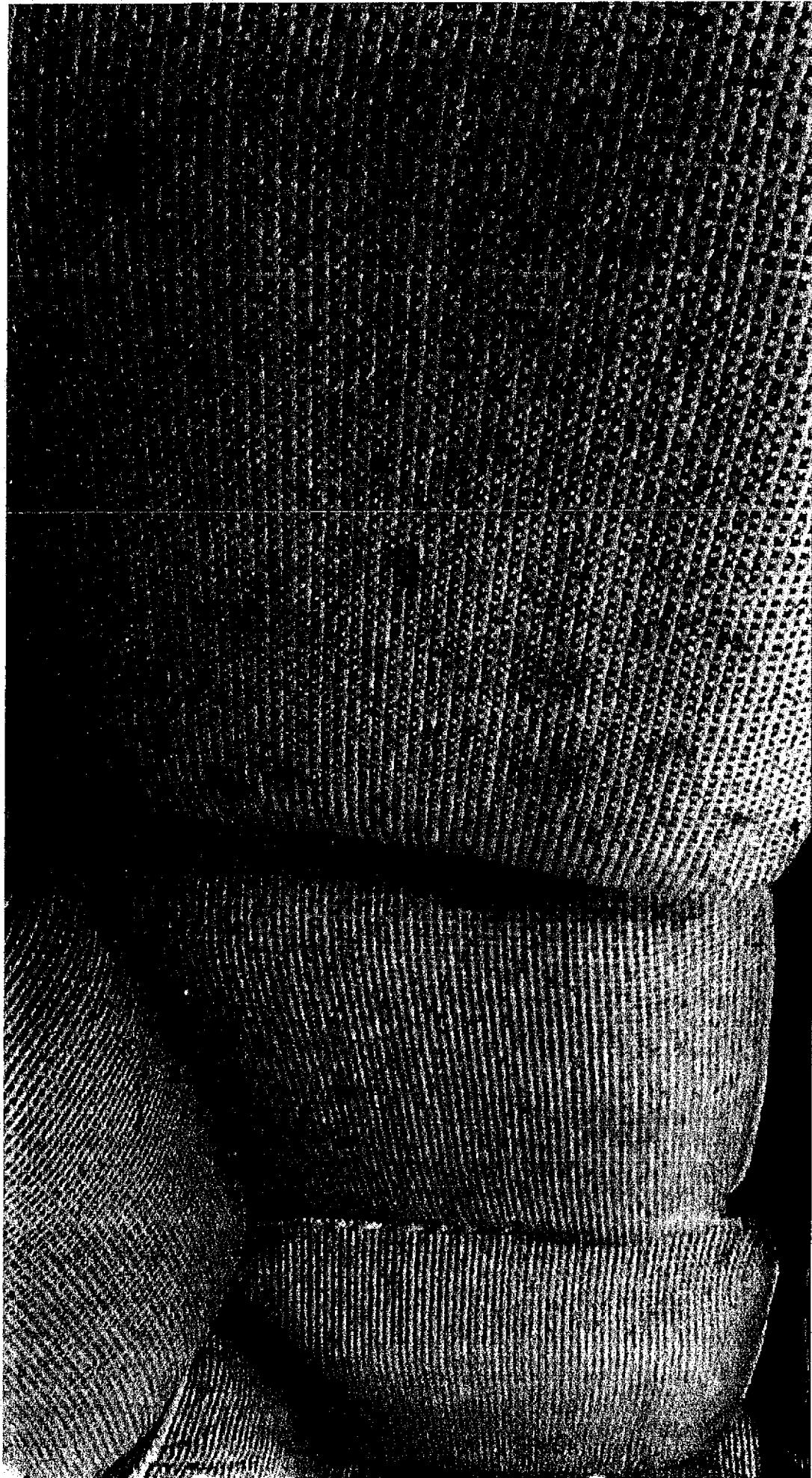


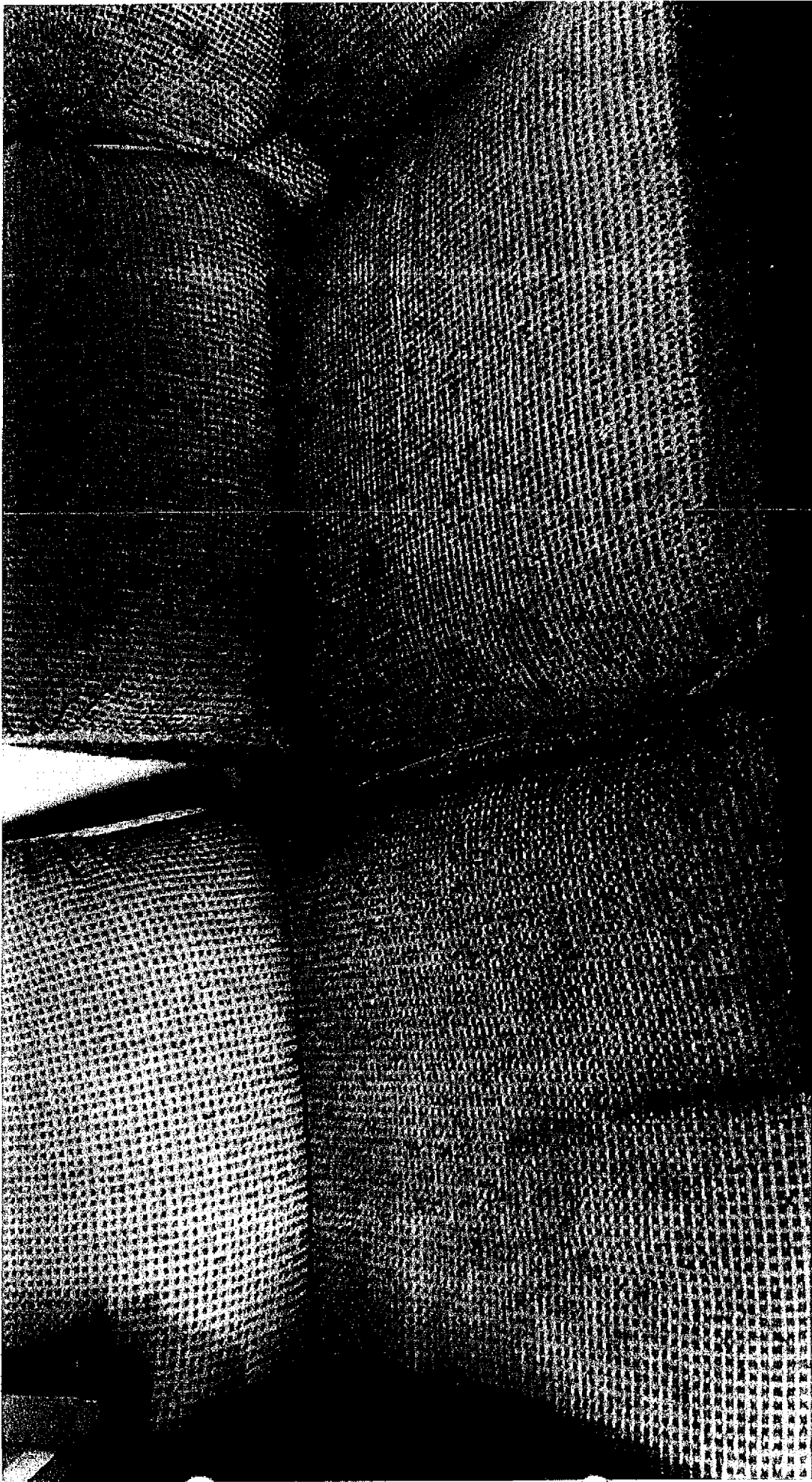








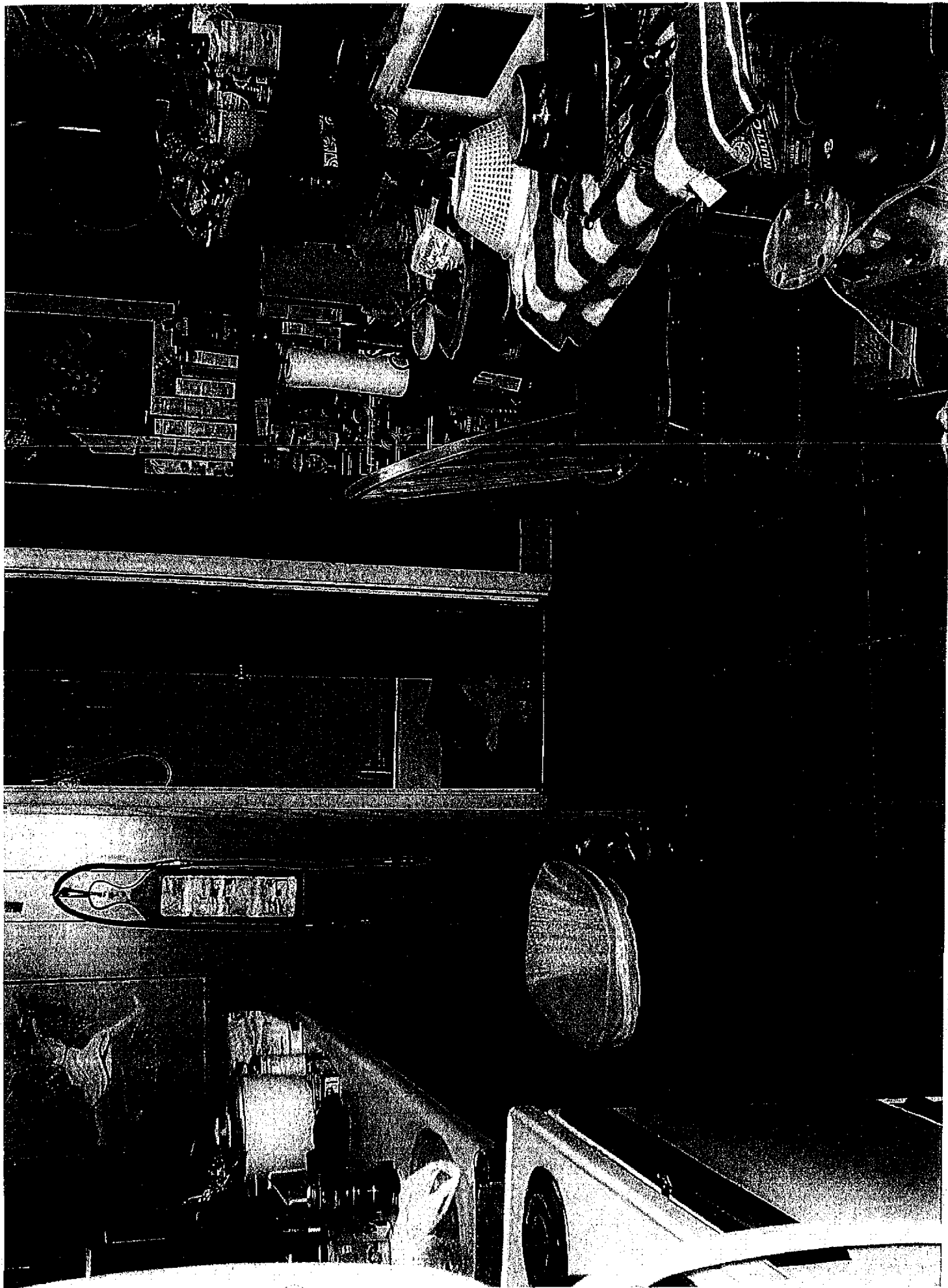


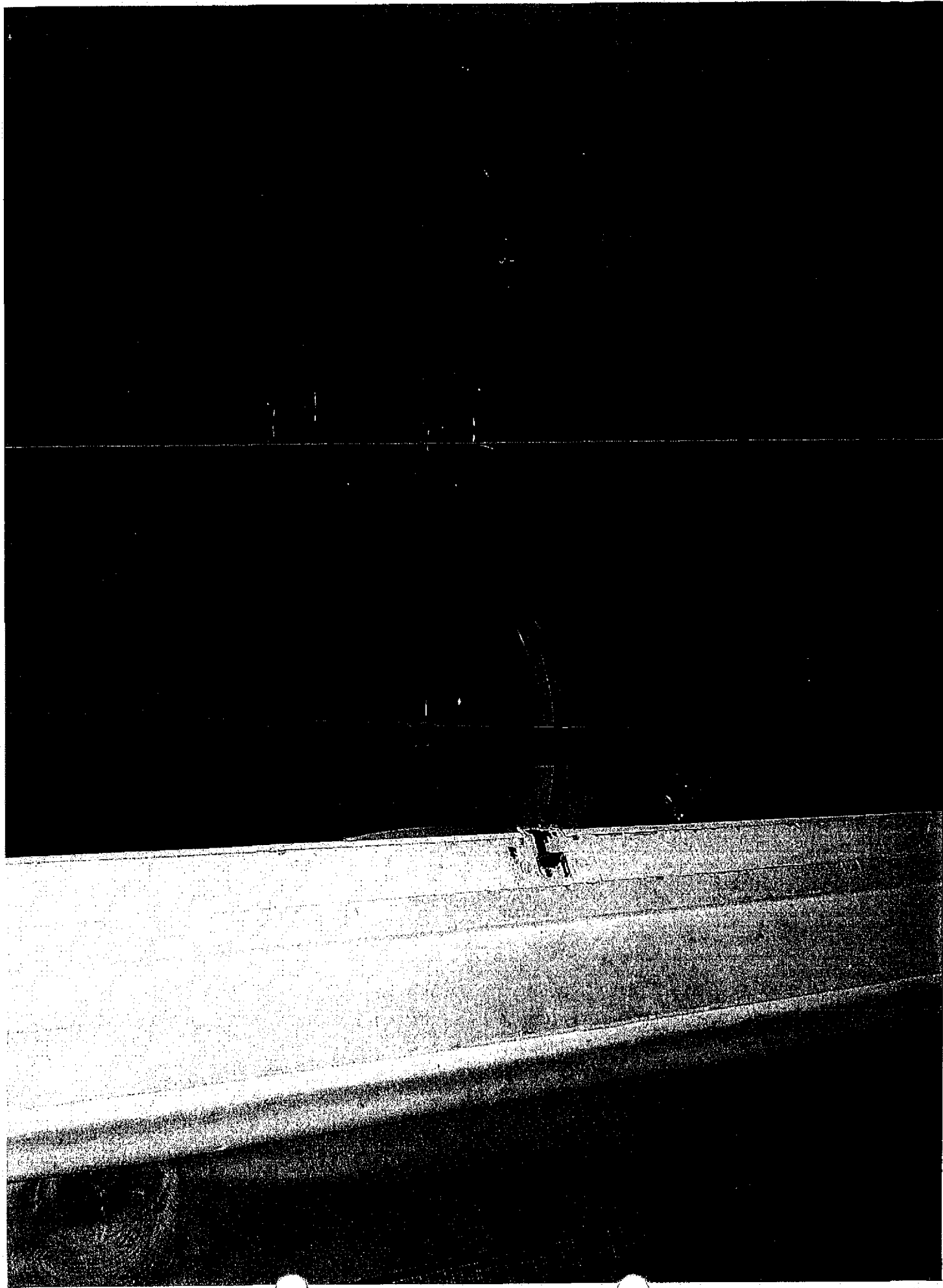


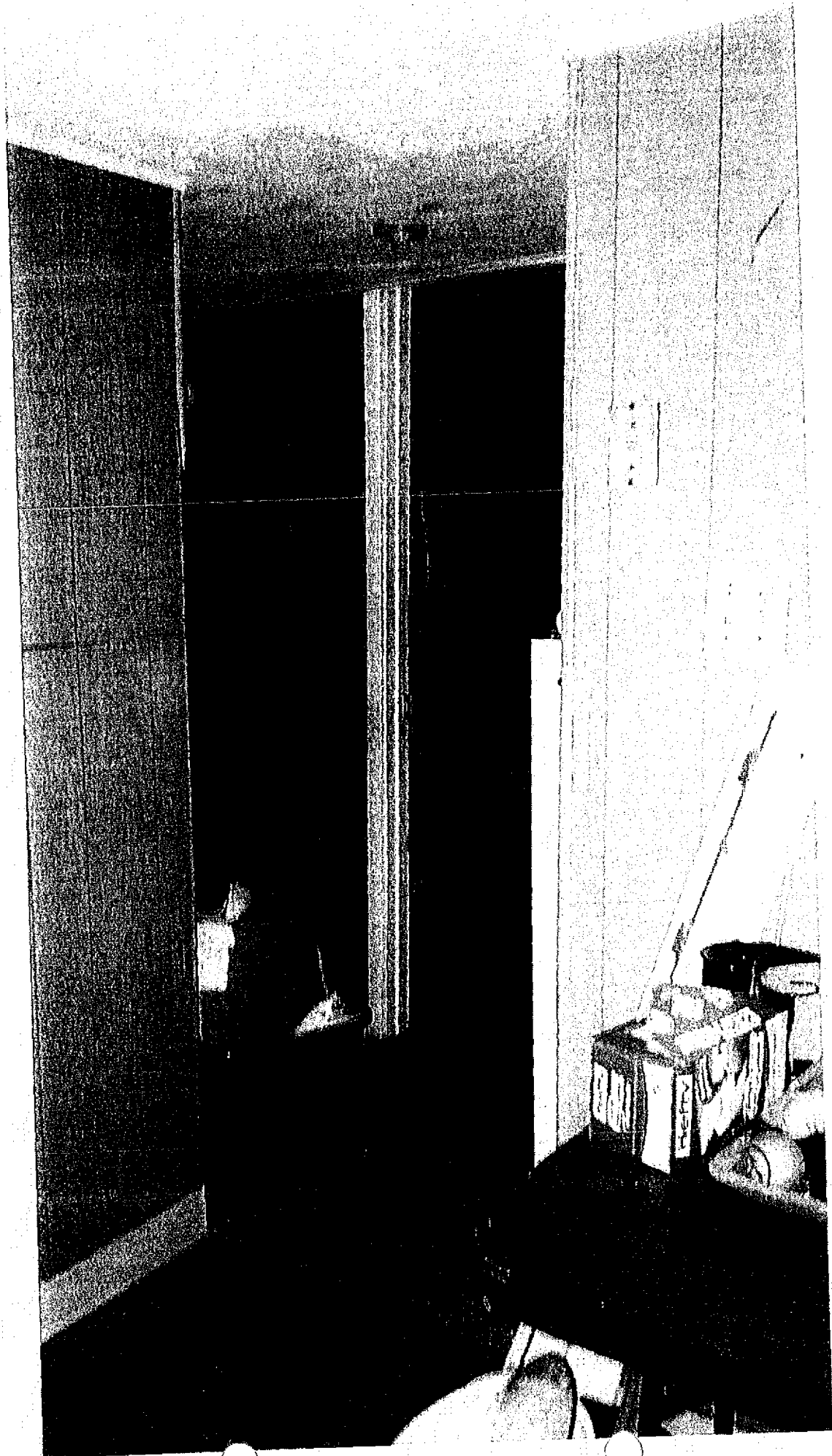
Handy Says... Peace to the World



Reddy says... Peace to the world













Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY -5 AM 5:23
BY KL
DEPUTY CLERK

Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE-A
Plaintiff,)	
	)	FIFTH RESPONSE TO
v.	)	DISCOVERY REQUEST
)	
AMAN GAS,)	
)	
Defendant.)	
)	

TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205

COMES NOW the Defendant, Aman Gas, by and through his attorney, and responds to the States Request for Discovery as follows:

1. Prior photograph of African-American individual is of Archie (LNU) also known as "Prince Adeb". We have no known address for him or other contact information. It is believed that he was at the residence the night of the alleged incident along with other individuals as indicated in the police reports (Disclosed to Officer Marshall during Andrea Ogoalla interview). At this point in time, he is not a potential witness. A color

copy is being provided with this response.

Adrian Smart

officer call records

Defendant reserves the right to supplement this response prior to trial.

Dated this 5 day of May 2014.



KENT V. REYNOLDS

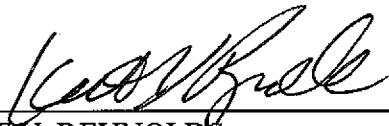
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5 day of May 2014, I served a true and correct copy of the **FIFTH RESPONSE TO REQUEST FOR DISCOVERY** was served upon the parties below as follows:




Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205





<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS







Assistant Chief Deputy Public Defender





9:29 AM

Meet Me Prince Adeb...





Prince Adeboye

30, Male



Info Friends Photos



Adrian Smart

aman Gas

04/14/14
16:30

Pocatello Police Department
Officer Radiolog Summary, by Officer

Page: 290
1

Date & Time: O State Unit: U Stat: Zone: Call:

BROWN, WILLIAM P.:

03:51:30 01/20/13 ASSIGNED & AVAILABLE 5237 ASSGN P6/8 P2595654
Comment: incid#=13-P01084 Assigned to a call call=121
03:55:41 01/20/13 ASSIGNED & AVAILABLE 5237 ENRT P6/8 P2595654
Comment: incid#=13-P01084 Enroute to a call call=121
03:58:46 01/20/13 ASSIGNED & AVAILABLE 5237 ARRVD P6/8 P2595654
Comment: incid#=13-P01084 425 HYDE call=121
04:07:24 01/20/13 ASSIGNED & AVAILABLE 5237 LOCTN P6/8 P2595654
Comment: Unit Location: PMC
04:07:32 01/20/13 ASSIGNED & AVAILABLE 5237 ENRT P6/8 P2595654
Comment: incid#=13-P01084 following victim call=121
04:15:26 01/20/13 ASSIGNED & AVAILABLE 5237 ARRVD P6/8 P2595654
Comment: incid#=13-P01084 pmc call=121
08:38:13 01/20/13 ASSIGNED & AVAILABLE 5237 ENRT P6/8 P2595654
Comment: incid#=13-P01084 1019 call=121
08:38:15 01/20/13 ASSIGNED & AVAILABLE 5237 LOCTN P6/8 P2595654
Comment: Unit Location: 1019
08:43:02 01/20/13 ASSIGNED & AVAILABLE 5237 ARRVD P6/8 P2595654
Comment: incid#=13-P01084 Arrived on scene call=121
09:28:04 01/20/13 ASSIGNED & AVAILABLE 5237 95 P6/8 P2595654
Comment: ADULT MALE IN CUSTODY
09:58:54 01/20/13 ASSIGNED & AVAILABLE 5237 CMPLT P6/8 P2595654
Comment: incid#=13-P01084 Completed call call=121

BUCK, JUSTIN:

04:01:28 01/20/13 ASSIGNED & AVAILABLE 5162 ARRVD P6/8 P2595654
Comment: incid#=13-P01084 Arrived on scene call=121
05:00:29 01/20/13 ASSIGNED & AVAILABLE 5162 LOCTN P6/8 P2595654
Comment: Unit Location: PPD
05:00:35 01/20/13 ASSIGNED & AVAILABLE 5162 ENRT P6/8 P2595654
Comment: incid#=13-P01084 Enroute to a call call=121
05:02:18 01/20/13 ASSIGNED & AVAILABLE 5162 ARRVD P6/8 P2595654
Comment: incid#=13-P01084 ppd call=121
07:50:58 01/20/13 ASSIGNED & AVAILABLE 5162 CMPLT P6/8 P2595654
Comment: incid#=13-P01084 Completed call call=121

ELDRIDGE, JEFF:

03:46:49 01/20/13 ASSIGNED & AVAILABLE 5262 ENRT P3/5 P2595654
Comment: incid#=13-P01084 Enroute to a call call=121
03:48:09 01/20/13 ASSIGNED & AVAILABLE 5262 ARRVD P3/5 P2595654
Comment: incid#=13-P01084 425 W HAYDEN call=121
03:50:41 01/20/13 ASSIGNED & AVAILABLE 5262 CMPLT P6/8 P2595654
Comment: incid#=13-P01084 Completed call call=121
03:56:26 01/20/13 ASSIGNED & AVAILABLE 5262 ENRT P6/8 P2595654
Comment: incid#=13-P01084 Enroute to a call call=121
03:58:46 01/20/13 ASSIGNED & AVAILABLE 5262 ARRVD P6/8 P2595654
Comment: incid#=13-P01084 425 HYDE call=121
04:46:08 01/20/13 ASSIGNED & AVAILABLE 5262 LOCTN P6/8 P2595654
Comment: Unit Location: PPD
04:46:14 01/20/13 ASSIGNED & AVAILABLE 5262 ENRT P6/8 P2595654
Comment: incid#=13-P01084 w/one male call=121

04/14/14
16:30

Pocatello Police Department
Officer Radiolog Summary, by Officer

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Page: 2

Date & Time:	O State	Unit:	U Stat:	Zone:	Call:
04:50:34 01/20/13	ASSIGNED & AVAILABLE	5262	ARRVD	P6/8	P2595654
Comment: incid#=13-P01084 w/one male call=121					
05:19:22 01/20/13	ASSIGNED & AVAILABLE	5262	CMPLT	P6/8	P2595654
Comment: incid#=13-P01084 Completed call call=121					
09:58:54 01/20/13	ASSIGNED & AVAILABLE	5262	CMPLT	P6/8	P2595654
Comment: incid#=13-P01084 Completed call call=121					

LAMBSON, TARL:

03:50:03 01/20/13	ASSIGNED & AVAILABLE	5261	ASSGN	P6/8	P2595654
Comment: incid#=13-P01084 Assigned to a call call=121					
03:50:15 01/20/13	ASSIGNED & AVAILABLE	5261	ENRT	P6/8	P2595654
Comment: incid#=13-P01084 425 HYDE call=121					
03:55:21 01/20/13	ASSIGNED & AVAILABLE	5261	ARRVD	P6/8	P2595654
Comment: incid#=13-P01084 425 HYDE call=121					
04:49:22 01/20/13	ASSIGNED & AVAILABLE	5261	CMPLT	P6/8	P2595654
Comment: incid#=13-P01084 Completed call call=121					
05:19:09 01/20/13	ASSIGNED & AVAILABLE	5261	ASSGN	P6/8	P2595654
Comment: incid#=13-P01084 Assigned to a call call=121					
05:19:13 01/20/13	ASSIGNED & AVAILABLE	5261	LOCTN	P6/8	P2595654
Comment: Unit Location: PPD					
05:19:16 01/20/13	ASSIGNED & AVAILABLE	5261	ARRVD	P6/8	P2595654
Comment: incid#=13-P01084 Arrived on scene call=121					
07:09:14 01/20/13	ASSIGNED & AVAILABLE	5261	ENRT	P6/8	P2595654
Comment: incid#=13-P01084 PMC W/1AM call=121					
07:09:17 01/20/13	ASSIGNED & AVAILABLE	5261	LOCTN	P6/8	P2595654
Comment: Unit Location: PMC					
07:14:53 01/20/13	ASSIGNED & AVAILABLE	5261	ARRVD	P6/8	P2595654
Comment: incid#=13-P01084 Arrived on scene call=121					
08:36:31 01/20/13	ASSIGNED & AVAILABLE	5261	ENRT	P6/8	P2595654
Comment: incid#=13-P01084 1019 W/1 AM call=121					
08:36:34 01/20/13	ASSIGNED & AVAILABLE	5261	LOCTN	P6/8	P2595654
Comment: Unit Location: 1019					
08:42:49 01/20/13	ASSIGNED & AVAILABLE	5261	ARRVD	P6/8	P2595654
Comment: incid#=13-P01084 Arrived on scene call=121					
09:32:10 01/20/13	ASSIGNED & AVAILABLE	5261	ENRT	P6/8	P2595654
Comment: incid#=13-P01084 COUNTY W/1 AM call=121					
09:32:13 01/20/13	ASSIGNED & AVAILABLE	5261	LOCTN	P6/8	P2595654
Comment: Unit Location: JAIL					
09:41:04 01/20/13	ASSIGNED & AVAILABLE	5261	ARRVD	P6/8	P2595654
Comment: incid#=13-P01084 Arrived on scene call=121					
09:58:54 01/20/13	ASSIGNED & AVAILABLE	5261	CMPLT	P6/8	P2595654
Comment: incid#=13-P01084 Completed call call=121					

PETERSON, SEAN:

03:46:49 01/20/13	ASSIGNED & AVAILABLE	5260	ENRT	P3/5	P2595654
Comment: incid#=13-P01084 Enroute to a call call=121					
03:48:10 01/20/13	ASSIGNED & AVAILABLE	5260	ARRVD	P3/5	P2595654
Comment: incid#=13-P01084 425 W HAYDEN call=121					
03:50:41 01/20/13	ASSIGNED & AVAILABLE	5260	CMPLT	P6/8	P2595654
Comment: incid#=13-P01084 Completed call call=121					
03:57:08 01/20/13	ASSIGNED & AVAILABLE	5260	ARRVD	P6/8	P2595654
Comment: incid#=13-P01084 Arrived on scene call=121					
04:22:21 01/20/13	ASSIGNED & AVAILABLE	5260	ARRVD	P6/8	P2595654

04/14/14
16:30

Pocatello Police Department
Officer Radiolog Summary, by Officer

Page: 290
3

Date & Time:	O State	Unit:	U Stat:	Zone:	Call:
Comment: incid#=13-P01084 ppd call=121					
04:22:24 01/20/13	ASSIGNED & AVAILABLE	5260	LOCTN	P6/8	P2595654
Comment: Unit Location: PPD					
04:29:22 01/20/13	ASSIGNED & AVAILABLE	5260	ENRT	P6/8	P2595654
Comment: incid#=13-P01084 425 HYDE call=121					
04:30:53 01/20/13	ASSIGNED & AVAILABLE	5260	LOCTN	P6/8	P2595654
Comment: Unit Location: 425 HYDE AVE					
04:32:07 01/20/13	ASSIGNED & AVAILABLE	5260	ARRVD	P6/8	P2595654
Comment: incid#=13-P01084 425 HYDE AVE call=121					
04:45:58 01/20/13	ASSIGNED & AVAILABLE	5260	CMPLT	P6/8	P2595654
Comment: incid#=13-P01084 Completed call call=121					

SHUTES, MATTHEW JACOB:

03:50:02 01/20/13	ASSIGNED & AVAILABLE	5213	ASSGN	P6/8	P2595654
Comment: incid#=13-P01084 Assigned to a call call=121					
03:50:15 01/20/13	ASSIGNED & AVAILABLE	5213	ENRT	P6/8	P2595654
Comment: incid#=13-P01084 425 HYDE call=121					
03:55:21 01/20/13	ASSIGNED & AVAILABLE	5213	ARRVD	P6/8	P2595654
Comment: incid#=13-P01084 425 HYDE call=121					
03:55:55 01/20/13	ASSIGNED & AVAILABLE	5213	VHINQ	P6/8	P2595654
Comment: pl=1BT6724					
04:16:16 01/20/13	ASSIGNED & AVAILABLE	5213	DLINQ	P6/8	P2595654
Comment: last=ogolla first=andrea mid=n* dob=					
04:16:27 01/20/13	ASSIGNED & AVAILABLE	5213	DLINQ	P6/8	P2595654
Comment: last=gas first=aman mid=f* dob=05/03/80					
04:49:22 01/20/13	ASSIGNED & AVAILABLE	5213	CMPLT	P6/8	P2595654
Comment: incid#=13-P01084 Completed call call=121					

Report Includes:

All agencies
All units
All officers
All unit status
All officer status
All status change times
All zones
All call number matching ~ P2595654 ~

*** End of Report /tmp/rptJRaiMa-rprlorsm.rl_1 ***

Aman Gas

04/14/14
16:32Pocatello Police Department
Radio Log Summary Report, by Day and TimePage: 290
1

Time	Date	Unit	Zone	Call ID	Code	Description
03:46:49	01/20/13	5260	P3/5	P2595654	ENRT	incid#-13-P01084 Enroute to a call call=121
03:46:49	01/20/13	5262	P3/5	P2595654	ENRT	incid#-13-P01084 Enroute to a call call=121
03:48:09	01/20/13	5262	P3/5	P2595654	ARRVD	incid#-13-P01084 425 W HAYDEN call=121
03:48:10	01/20/13	5260	P3/5	P2595654	ARRVD	incid#-13-P01084 425 W HAYDEN call=121
03:50:02	01/20/13	5213	P6/8	P2595654	ASSGN	incid#-13-P01084 Assigned to a call call=121
03:50:03	01/20/13	5261	P6/8	P2595654	ASSGN	incid#-13-P01084 Assigned to a call call=121
03:50:15	01/20/13	5213	P6/8	P2595654	ENRT	incid#-13-P01084 425 HYDE call=121
03:50:15	01/20/13	5261	P6/8	P2595654	ENRT	incid#-13-P01084 425 HYDE call=121
03:50:41	01/20/13	5260	P6/8	P2595654	CMPLT	incid#-13-P01084 Completed call call=121
03:50:41	01/20/13	5262	P6/8	P2595654	CMPLT	incid#-13-P01084 Completed call call=121
03:51:30	01/20/13	5237	P6/8	P2595654	ASSGN	incid#-13-P01084 Assigned to a call call=121
03:55:21	01/20/13	5213	P6/8	P2595654	ARRVD	incid#-13-P01084 425 HYDE call=121
03:55:21	01/20/13	5261	P6/8	P2595654	ARRVD	incid#-13-P01084 425 HYDE call=121
03:55:41	01/20/13	5237	P6/8	P2595654	ENRT	incid#-13-P01084 Enroute to a call call=121
03:55:55	01/20/13	5213	P6/8	P2595654	VHINQ	pl=1BT6724
03:56:26	01/20/13	5262	P6/8	P2595654	ENRT	incid#-13-P01084 Enroute to a call call=121
03:57:08	01/20/13	5260	P6/8	P2595654	ARRVD	incid#-13-P01084 Arrived on scene call=121
03:58:46	01/20/13	5237	P6/8	P2595654	ARRVD	incid#-13-P01084 425 HYDE call=121
03:58:46	01/20/13	5262	P6/8	P2595654	ARRVD	incid#-13-P01084 425 HYDE call=121
04:01:28	01/20/13	5162	P6/8	P2595654	ARRVD	incid#-13-P01084 Arrived on scene call=121
04:07:24	01/20/13	5237	P6/8	P2595654	LOCTN	Unit Location: PMC
04:07:32	01/20/13	5237	P6/8	P2595654	ENRT	incid#-13-P01084 following victim call=121
04:15:26	01/20/13	5237	P6/8	P2595654	ARRVD	incid#-13-P01084 pmc call=121
04:15:43	01/20/13	5260	P2/4	P2595654	VHINQ	MDC: pl=1BN3145 st-ID
04:16:16	01/20/13	5213	P6/8	P2595654	DLINQ	last= [REDACTED] st=andrea mid=n* dob= [REDACTED]
04:16:20	01/20/13	5162	P30	P2595654	NMINQ	MDC: name= [REDACTED] AMAN*
04:16:27	01/20/13	5213	P6/8	P2595654	DLINQ	last= [REDACTED] first=aman mid=f* dob= [REDACTED]
04:22:21	01/20/13	5260	P6/8	P2595654	ARRVD	incid#-13-P01084 ppd call=121
04:22:24	01/20/13	5260	P6/8	P2595654	LOCTN	Unit Location: PPD
04:29:22	01/20/13	5260	P6/8	P2595654	ENRT	incid#-13-P01084 425 HYDE call=121
04:30:53	01/20/13	5260	P6/8	P2595654	LOCTN	Unit Location: 425 HYDE AVE

04/14/14
16:32

Pocatello Police Department
Radio Log Summary Report, by Day and Time

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Page: 2

Time	Date	Unit	Zone	Call ID	Code	Description
04:32:07	01/20/13	5260	P6/8	P2595654	ARRVD	incid#-13-P01084 425 HYDE AVE call=121
04:43:29	01/20/13	5260	P2/4	P2595654	NMINQ	MDC: name=G*, RAUSH*
04:45:58	01/20/13	5260	P6/8	P2595654	CMPLT	incid#-13-P01084 Completed call call=121
04:46:08	01/20/13	5262	P6/8	P2595654	LOCTN	Unit Location: PPD
04:46:14	01/20/13	5262	P6/8	P2595654	ENRT	incid#-13-P01084 w/one male call=121
04:49:22	01/20/13	5213	P6/8	P2595654	CMPLT	incid#-13-P01084 Completed call call=121
04:49:22	01/20/13	5261	P6/8	P2595654	CMPLT	incid#-13-P01084 Completed call call=121
04:50:34	01/20/13	5262	P6/8	P2595654	ARRVD	incid#-13-P01084 w/one male call=121
04:57:32	01/20/13	5203	P6/8	P2595654	ASSGN	incid#-13-P01084 Assigned to a call call=121
04:57:36	01/20/13	5203	P6/8	P2595654	CMPLT	incid#-13-P01084 Completed call call=121
05:00:29	01/20/13	5162	P6/8	P2595654	LOCTN	Unit Location: PPD
05:00:35	01/20/13	5162	P6/8	P2595654	ENRT	incid#-13-P01084 Enroute to a call call=121
05:02:18	01/20/13	5162	P6/8	P2595654	ARRVD	incid#-13-P01084 ppd call=121
05:19:09	01/20/13	5261	P6/8	P2595654	ASSGN	incid#-13-P01084 Assigned to a call call=121
05:19:13	01/20/13	5261	P6/8	P2595654	LOCTN	Unit Location: PPD
05:19:16	01/20/13	5261	P6/8	P2595654	ARRVD	incid#-13-P01084 Arrived on scene call=121
05:19:22	01/20/13	5262	P6/8	P2595654	CMPLT	incid#-13-P01084 Completed call call=121
07:09:14	01/20/13	5261	P6/8	P2595654	ENRT	incid#-13-P01084 PMC W/1AM call=121
07:09:17	01/20/13	5261	P6/8	P2595654	LOCTN	Unit Location: PMC
07:14:53	01/20/13	5261	P6/8	P2595654	ARRVD	incid#-13-P01084 Arrived on scene call=121
07:50:58	01/20/13	5162	P6/8	P2595654	CMPLT	incid#-13-P01084 Completed call call=121
08:36:31	01/20/13	5261	P6/8	P2595654	ENRT	incid#-13-P01084 1019 W/1 AM call=121
08:36:34	01/20/13	5261	P6/8	P2595654	LOCTN	Unit Location: 1019
08:38:13	01/20/13	5237	P6/8	P2595654	ENRT	incid#-13-P01084 1019 call=121
08:38:15	01/20/13	5237	P6/8	P2595654	LOCTN	Unit Location: 1019
08:42:49	01/20/13	5261	P6/8	P2595654	ARRVD	incid#-13-P01084 Arrived on scene call=121
08:43:02	01/20/13	5237	P6/8	P2595654	ARRVD	incid#-13-P01084 Arrived on scene call=121
09:28:04	01/20/13	5237	P6/8	P2595654	95	ADULT MALE IN CUSTODY
09:32:10	01/20/13	5261	P6/8	P2595654	ENRT	incid#-13-P01084 COUNTY W/1 AM call=121
09:32:13	01/20/13	5261	P6/8	P2595654	LOCTN	Unit Location: JAIL
09:41:04	01/20/13	5261	P6/8	P2595654	ARRVD	incid#-13-P01084 Arrived on scene call=121
09:58:54	01/20/13	5237	P6/8	P2595654	CMPLT	incid#-13-P01084 Completed call call=121
09:58:54	01/20/13	5261	P6/8	P2595654	CMPLT	incid#-13-P01084 Completed call call=121

04/14/14
16:32

Pocatello Police Department
Radio Log Summary Report, by Day and Time

290
Page: 3

Time	Date	Unit	Zone	Call ID	Code	Description
09:58:54	01/20/13	5262	P6/8	P2595654	CMPLT	incid#=13-P01084 Completed call call=121

Report Includes:

All dates between `00:00:00 01/20/13` and `13:00:00 01/20/13`
All dispatchers
All call numbers matching ` P2595654`
All agencies
All zones
All units
All ten codes

*** End of Report /tmp/rpt-XapUa-xprlr1su.r1_1 ***

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 MAY -6 PM 1:46

BY
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CR-2013-0864-FE
Plaintiffs,)	
)	
-vs-)	
	)	ORDER DENYING DEFENDANT'S MOTION
AMAN GAS,	)	TO SUPPRESS
)	
Defendants.)	
)	
)	
)	

This case comes before the Court on Defendant's Motion to Suppress. Gas seeks to suppress any statements he made to the Pocatello Police Department on January 20, 2013, as well as the DNA evidence that was obtained that day. Gas argues first that the initial interview with officers was a custodial interrogation that was conducted without informing Gas of his rights, and second, that officers obtained Gas' consent to proceed with the interrogation and to conduct DNA testing through coercion, which rendered his consent involuntary. An evidentiary hearing was held on this Motion on April 9, 2014. Both parties have submitted briefing, and the Court now issues this decision denying Defendant's motion.

CR-2013-0864-FE
ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS
Page 1

FACTS¹

On January 20, 2013, Aman Gas participated in an interview with Detective Tracy Marshall of the Pocatello Police Department. The interview was part of an investigation into an alleged sexual assault that had been reported in the early morning hours. Gas voluntarily came to the police station with officers around 4:45 AM. Officer Eldridge, who transported Gas, placed Gas in handcuffs for the duration of the drive to the police station. Marshall testified that it is standard policy for the Pocatello Police Department to handcuff individuals being transported, even when they are not under arrest, to ensure officer safety. Gas was told when the handcuffs were placed on him that he was not being placed under arrest.

When they arrived at the Pocatello Police Department, Gas was taken to an interview room and the handcuffs were removed. At 5:18 AM the interview with Marshall began. Marshall informed Gas that he was not under arrest, was not being detained, and that Gas was free to go at any time. Gas was told to tell Marshall if he wanted to end the interview and leave. Marshall then asked Gas to tell him about what had happened the previous day. Gas took Marshall through the events of the previous day, eventually concluding at 3:00 AM that morning, when Gas came home and went to sleep on the couch at his residence. Gas told Marshall that he had been drinking throughout the evening and had just gotten home from the bar when he went to sleep. Gas also explained that when he arrived at home that morning, he saw the alleged victim, Raushelle Goodin-Guzman sleeping on the "L" shaped couch in his residence. Gas regularly slept on the couch, so when he got home he took off his shoes and shirt and went to sleep on the portion of the couch where Guzman was not sleeping. The next thing Gas says he

¹ The facts have been taken from the testimony of Detective Tracy Marshall and Defendant, Aman Gas, as offered at the evidentiary hearing on this matter, as well as from recordings of the interview and transport of Gas, as found in Defendant's Exhibits 1 and 2 and as part of the Additional Stipulation of the Parties RE: Motion to Suppress and the Admission of Additional Evidence, filed with the Court on April 18, 2014.

remembers is police knocking on his door and asking if he would come to the station and answer a few questions.

After hearing this account, Marshall explained to Gas that Guzman was alleging that something else had happened. Marshall asked Gas if he had walked near Guzman or touched her. Gas told Marshall he had simply gone to sleep and had not gone near Guzman. Marshall then gave a further explanation that Guzman was alleging Gas had tried to take her pants off and have intercourse with her. Gas reiterated that he had not gone anywhere near Guzman and didn't know why she had made these allegations. Marshall asked what proof Gas could offer that he had not assaulted Guzman and suggested a penile swab to check for DNA evidence. At this point Gas said he was too overwhelmed with the allegations, and Marshall asked if Gas would like a break. Gas stated that unless they were going to place him under arrest he wanted to end the interview and go home.

Marshall immediately ceased questioning Gas and told him he would have to make a quick phone call before Gas could leave. Marshall contacted Detective Brown, who was speaking with the victim at that time. The two decided that they had enough evidence at this point to detain Gas as part of the investigation. About ten minutes after Marshall left the interview room he returned and informed Gas that they had collected sufficient information to detain him, and he would not be allowed to leave at that point. Gas asked for clarification about whether he was being arrested and Marshall explained that he was being detained but not arrested.

Marshall then explained that he wanted to continue speaking with Gas, but to do so Gas would have to be willing to waive his right to counsel and right to remain silent. Marshall presented Gas with a waiver form which contained a list of rights that amounted to *Miranda*

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ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS

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rights. After reading and explaining the form to Gas, Marshall asked if Gas would consent to waiving his rights. Gas was concerned that he had not been read these rights previously, but Marshall explained that prior to this point Gas had been a voluntary participant in their discussion. Now that Gas was being detained, Marshall needed a waiver from Gas before he could continue with the interrogation, or they would have to wait for an attorney to be provided to Gas. Gas expresses concern about consenting to waiving these rights. After a brief discussion with Gas about his options, Marshall tells Gas he's going to give him some time to think about it. Gas then asked for and was provided with a cup of water while he decided what he wanted to do.

After about a half-hour, Marshall returned to the room and asked Gas if he made up his mind. Gas stated that he was willing to answer questions and do a DNA test so that he could get it over with and go home. Marshall confirms that Gas is willing to proceed without an attorney, and then has Gas sign the waiver. Marshall then stepped out of the room for a few minutes to set up the DNA test. While Marshall was setting this up, Gas asked for and was given a "smoke break" during which Gas was accompanied by Officer Lambson. After the break, Marshall returned and explained the consent to search form. Gas then signed the form.

Gas was then transported to Pocatello Hospital for a sexual assault evaluation, conducted by a forensic nurse. Officer Lambson transported Gas to the hospital and Marshall met the two there. The evaluation was then conducted and Gas was taken back to the Pocatello Police Department, where he was asked a few more questions by Marshall. At no point after giving his consent to the continued questioning did Gas invoke either his right to remain silent or his right to an attorney.

I. At what point was Defendant subjected to a custodial interrogation, requiring that

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ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS

Page 4

Defendant be informed of his *Miranda* rights?

“*Miranda v. Arizona* requires that a person be informed of his or her Fifth Amendment privilege against self-incrimination prior to custodial interrogation; otherwise, incriminating statements are inadmissible.”² An interrogation occurs if the suspect is subjected to express questioning or any act by law enforcement, which is “reasonably likely to elicit an incriminating response.”³

A custodial interrogation occurs even when a suspect has not been formally arrested, if the suspect was “subjected to a restraint on his or her liberty in any degree similar to a formal arrest.”⁴ “The inquiry focuses on the objective circumstances of the interrogation, not the subjective views of the officers or the individual being questioned.”⁵ The Ninth Circuit has explained that this inquiry is about whether “the officers established a setting from which a reasonable person would believe that he or she was not free to leave.”⁶ A court evaluating whether a person is in custody should look at the following factors:

(1) the language used to summon the individual; (2) the extent to which the defendant is confronted with evidence of guilt; (3) the physical surroundings of the interrogation; (4) the duration of the detention; and (5) the degree of pressure applied to detain the individual. Other factors may also be pertinent to, and even dispositive of, the ultimate determination whether a reasonable person would have believed he could freely walk away from the interrogators; [these] factors are simply ones that recur frequently.⁷

Here, the Court cannot find that the Gas was subjected to a custodial interrogation prior to Marshall informing him that he was being detained. Gas voluntarily chose to go to the police

² *State v. Hansen*, 138 Idaho 791, 795, 69 P.3d 1052, 1056 (2003) (citing *State v. Doe*, 137 Idaho 519, 523, 50 P.3d 1014, 1018 (2002)).

³ *Hansen*, 138 Idaho at 795, 69 P.3d at 1056 (citing *State v. Frank*, 133 Idaho 364, 370, 986 P.2d 1030, 1036 (Ct.App. 1999); *Rhode Island v. Innis*, 466 U.S. 291, 300-02 (1980)).

⁴ *Hansen*, 138 Idaho at 795, 69 P.3d at 1056 (citing *State v. Doe*, 130 Idaho 811, 814, 948 P.2d 166, 169 (Ct.App. 1997); *New York v. Quarles*, 467 U.S. 649, 655 (1984); *California v. Beheler*, 463 U.S. 1121 (1983)).

⁵ *United States v. Kim*, 292 F.3d 969, 973 (9th Cir. 2002).

⁶ *United States v. Beraun-Panez*, 812 F.2d 578, 580 (9th Cir. 1987), *modified by* 830 F.2d 127 (9th Cir. 1987).

⁷ *Kim*, 292 F.3d at 974 (internal quotations omitted).

station for questioning. Although Gas was handcuffed by officers transporting him to the police station, Gas was repeatedly informed that he was not under arrest, and he could choose to end the conversation whenever he wanted. Eldridge informed Gas when he drove him to the police station that he was not under arrest. Eldridge explained to Gas that the handcuffs were part of normal procedure to ensure officer safety. Upon arriving at the police station and being escorted to the interview room, the handcuffs were removed. Additionally, Marshall told Gas at the outset of their interview that Gas was free to terminate the interview at any point.

During the interview Gas was not confronted with substantial evidence of his guilt. Instead, Gas was merely told of the allegations being made against him by the alleged victim. Furthermore, Gas was only confronted with this limited evidence of guilt at the end of the questioning.

Although the interview took place at the police station, with officer's all around, Gas was never interviewed by more than one officer. The interview lasted less than one hour before Gas was detained. Thus, it cannot be said that the non-custodial interview was excessive in its length. The Court agrees with the State's contention that although Gas had been drinking the night before and hadn't had much to eat, there is nothing in the interview that suggests Gas was impaired and did not understand that his participation was voluntary. Lastly, and importantly, Gas himself demonstrated that he knew he was not in custody when he asked to terminate the interview and go home. This statement certainly contradicts and negates Gas' contention that he was in custody the entire time the questioning occurred. Even though Gas was not released when he asked to go home, Marshall immediately ceased questioning Gas. Marshall then quickly conferred with Brown and determined that there was sufficient evidence to detain Gas. It was only at this point that Gas was prevented from leaving and was detained.

CR-2013-0864-FE

ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS

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After evaluating all these facts and weighing the factors stated above, the Court concludes that Gas was not in custody prior to being told he was being detained. Since Gas was not in custody at that point, none of the statements made to officers prior to the detention will be suppressed.⁸

II. Was Defendant's consent to continue the interrogation after he was detained and to submit to DNA testing voluntarily given?

"It is the State's burden to prove, by a preponderance of the evidence, that the consent was voluntary rather than the result of duress or coercion, direct or implied."⁹ To explain this standard the Court of Appeals stated:

A voluntary decision is one that is the product of an essentially free and unconstrained choice by its maker. An individual's consent is involuntary, on the other hand, if his will has been overborne and his capacity for self-determination critically impaired. In determining whether a subject's will was overborne in a particular case, the court must assess the totality of all the surrounding circumstances—both the characteristics of the accused and the details of the interrogation. Thus, whether consent was granted voluntarily, or was a product of coercion, is a factual determination to be based upon the surrounding circumstances, accounting for subtly coercive police questions and the possibly vulnerable subjective state of the party granting the consent to a search.¹⁰

The Court listed several factors to consider in determining the voluntariness of a subject's consent including: "whether there were numerous officers involved in the confrontation;" the location and time of day; specifically if it occurred at night; whether law enforcement kept the subject's identification – for example keeping a driver's license thus preventing the subject from leaving – whether the subject was free to leave; and if the subject knew of the right to refuse to

⁸ Obviously, this ruling is not an evidentiary conclusion that anything Gas said during this voluntary questioning will be admissible at trial, which is a very different determination.

⁹ *State v. Jaborra*, 143 Idaho 94, 97, 137 P.3d 481, 484 (Ct. App. 2006).

¹⁰ *Id.* (internal quotations omitted).

give consent.¹¹ In *Jaborra*, the Court of Appeals made clear that evidence of consent is not evidence of voluntariness.¹² The Idaho Supreme Court has explained additional factors, stating:

In determining the voluntariness of a confession, a court must look to the characteristics of the accused and the details of the interrogation, including the following:

1. Whether *Miranda* warnings were given;
2. The youth of the accused;
3. The accused's level of education or low intelligence;
4. The length of the detention;
5. The repeated and prolonged nature of the questioning; and

6. Deprivation of food or sleep.¹³ The Ninth Circuit has held that trickery does not automatically equate to coercion.¹⁴ In *Crawford*, the court found that a confession was not the result of coercion where officers resorted to trickery to get the confession.¹⁵ However, the court did find that deceptive interrogation tactics may be coercive where law enforcement makes threats or promises.¹⁶

After Gas was detained, Marshall told Gas that he would like to conduct further questioning but needed Gas' permission to proceed without an attorney present representing Gas. It is clear that Gas had been drinking extensively the previous day and expressed to Marshall that he still felt intoxicated during their conversation. Additionally, Gas had not slept much that night since he got home late and was picked up and interviewed in the early morning hours, and Gas had not eaten since lunch the previous day. Although Gas was never explicitly promised

¹¹ *Id.* (citations omitted).

¹² *Id.* at 98, 137 P.3d at 485.

¹³ *State v. Troy*, 124 Idaho 211, 214, 858 P.2d 750, 753 (1993) (citing *Scheckloth v. Bustamonte*, 412 U.S. 218, 226 (1973)).

¹⁴ *United States v. Crawford*, 372 F.3d 1048, 1061 (9th Cir. 2004).

¹⁵ *Id.*

¹⁶ *Id.* (quoting *United States v. Kontny*, 238 F.3d 815, 817 (7th Cir. 2001)).

that he could leave if he consented, it appears that Gas believed that he would be allowed to go home if he consented to continue the questioning and to allow DNA testing.

Although these facts do speak to Gas' subjective vulnerabilities at the time he granted consent, the Court finds they are insufficient to amount to coercion and involuntary consent. As the State points out, Marshall was very patient with Gas in explaining what Gas' rights were, and in allowing Gas sufficient time, about thirty [30] minutes, to consider the consequences of waiving his rights. No pressure was placed on Gas to make a quick decision about waiving his rights. Marshall was not aware of when Gas had last eaten, and Gas did not request food. Gas did request water and a smoke break and was allowed both of those things. Marshall could not have known if Gas was hungry because Gas never expressed to Marshall or any of the other officers that he was hungry. Although Gas may have wanted to leave so that he could eat, there was no indication that Gas would be deprived of food if he did not consent. Additionally, there is no indication that Gas would have been prevented from sleeping had he refused to consent to the search.

Gas asserts that he consented because he was promised that if he cooperated with the questioning and DNA testing, he would be allowed to leave. However, the video evidence never shows that Gas was promised he would be allowed to leave after the interrogation and testing were completed. It does appear that Marshall allowed Gas to proceed under that belief, but Marshall never made any explicit promises to Gas that he would be permitted to leave if he complied. Marshall only expressed that the DNA testing would be a way for Gas to exonerate himself should the results come back negative. The fact that Gas believed by consenting he would be allowed to leave does not amount to coercion or lack of voluntariness. The Court finds that Gas was never promised anything or threatened in any way in an effort by law enforcement

CR-2013-0864-FE

ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS

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to acquire Gas' consent to proceed with the investigation.

In addition to these issues, Gas points out that he was handcuffed while being transported to and from the hospital for portions of the DNA testing. At the point Gas was transported to the hospital he was already explicitly in custody. He had already been told by Marshall that he was being detained. Additionally, Gas had already granted his consent to the DNA testing before he was handcuffed and transported to the hospital for the testing. Although consent may be withdrawn at any time after it has been given, the Court finds that handcuffing an explicitly detained defendant who is in custody while that defendant is transported by law enforcement is not coercive, particularly when that occurs after the consent is given. In addition, as noted above, handcuffing while in transport was a standard practice for officer safety and there is no suggestion that Gas was handcuffed either while at the hospital or after returning to the police station.


Based on the above analysis, the Court finds that Gas' consent to continue questioning without an attorney and to permit the DNA testing were both given voluntarily and without police coercion.

CONCLUSION

For the reasons stated above, Defendant's Motion to Suppress is DENIED.

IT IS SO ORDERED.

DATED this 5th day of May, 2014


STEPHEN S. DUNN
District Judge

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 10 day of May, 2014, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

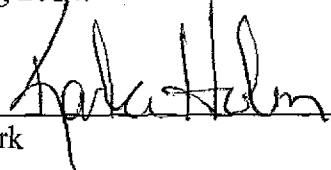
Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bannock County Courthouse
Pocatello, ID 83205

☐ U.S. Mail
☐ Overnight Delivery
☒ Hand Deliver
☐ Facsimile

JaNiece Price
Assistance Chief Deputy Prosecuting Attorney
P.O. Box P
Pocatello, ID 83205-0050

☐ U.S. Mail
☐ Overnight Delivery
☒ Hand Deliver
☐ Facsimile

DATED this 10 day of May, 2014.



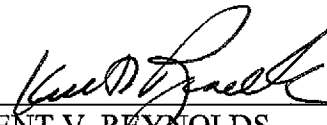
Deputy Clerk

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BANNOCK COUNTY
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2014 MAY -6 PM 4:19
BY KHA
DEPUTY CLERK

Vijay Krishnan

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 6 day of May, 2014.

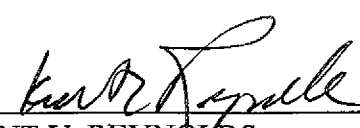

KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6 day of May, 2014, I served a true and correct copy of the **NINTH DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail Bannock County
☐ Facsimile


KENT V. REYNOLDS
Deputy Public Defender

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

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BANNOCK COUNTY
CLERK OF THE COURT
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BY KH
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
AMAN FARAH GAS,)
)
Defendant.)
_____)

CASE NO. CR-2013-864-FE - A

RESPONSE TO SIXTH
DISCOVERY REQUEST
SUPPLEMENTAL

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the
Defendant.


COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Fifth Request for Discovery as follows:

REQUEST NO. 1. Please produce copies of the photographs taken during
the purported sexual assault examination conducted on or about January 20, 2013, at
the Portneuf Medical Center.

**RESPONSE NO. 1: Attached please find copies of photographs taken on or
about January 20, 2013.**

The State reserves the right to supplement this response upon receipt of such evidence.

DATED this 14th day of May, 2014.



JaNIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I **HEREBY CERTIFY** That on this ____ day of May, 2014, a true and correct copy of the foregoing SUPPLEMENTAL SIXTH RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

[] mail -
postage prepaid
☒ hand delivery
[] fax - 236-7048


JaNIECE PRICE

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY -6 PM 4:19
BY *KH*
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff.

vs.

AMAN GAS,

Defendant.

CASE NO. CR-2013-864-FE-A

DEFENDANT'S FIRST WITNESSES LIST

Comes now the Defendant, Aman Gas, by and through his attorney, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and hereby disclose the following individuals who may be called to testify at trial:

Raushelle Goodin Guzman, 145 Hillcrest #38, Af, 269-0498 Msg

Andrea Ogolla, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854

Monique Hamblin, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854

Richard Sammons, 3132 Neeley, Af, 269-0498

Abhishek Dwivedi, 1222 Freeman Ln #139, Pocatello, 240-7736

Ann Wilcox RN, PMC

Curtis Sandy MD, PMC

Gina Sterner RN, PMC

Tracy Marshall, PPD

William Brown, PPD

Matthew Shutes, PPD

Tarl Lambson, PPD

Justin Buck, PPD

Jeffrey Eldridge, PPD

Troy Allbright, PMC

Defendant reserves the right to supplement this list prior to trial.

Dated this 6 day of May, 2014.



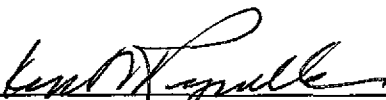
KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6 day of May, 2014, I served a true and correct copy of the **DEFENDANT'S FIRST WITNESS LIST** was served upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

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BANNOCK COUNTY
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BY XH
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,	)	CASE NO. CR-2013-864-FE-A
)	
Plaintiff	)	FIRST MOTION IN LIMINE
v.)	
)	
AMAN GAS,)	
)	
Defendant.)	
_____)	

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V. Reynolds, Deputy Public Defender, and hereby moves this Court pursuant to Rules 402 and 403, I.R.E., and moves this court for its order precluding the State from making any reference to the Defendant as the alleged perpetrator during opening argument. At the time of opening arguments, it is not relevant and will only mislead the jury and unfairly prejudice the Defendant. This motion is based upon the record and is made in the interest of justice.

First Motion in Limine
Page 1

Defendant further moves the court pursuant to Rules 402 and 403, I.R.E. from allowing the State to have the Raushelle Guzman identify the Defendant as the alleged perpetrator of the crime until the court is satisfied there is a purported factual basis for the identification as it is not relevant evidence and will only mislead the jury and unfairly prejudice the Defendant.

DATED this 7 day of May, 2014.



KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7 day of May, 2014, I served a true and correct copy of the **FIRST MOTION IN LIMINE** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE-A
Plaintiff,)	
	)	SEVENTH RESPONSE TO
v.	)	DISCOVERY REQUEST
)	
AMAN GAS,)	
)	
Defendant.)	
_____)	

TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205

COMES NOW the Defendant, Aman Gas, by and through his attorney, and responds to
the States Request for Discovery as follows:

4. Other witnesses

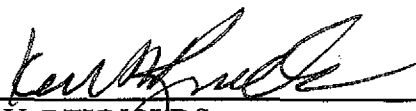
Eric Whiteside, RN, PMC

Defendant reserves the right to supplement this response prior to trial.

Seventh Response to Discovery Request
Page 1

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY -7 PM 4:17
BY *AK*
DEPUTY CLERK

Dated this 7 day of May 2014.



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 7 day of May 2014, I served a true and correct copy of the **SEVENTH RESPONSE TO REQUEST FOR DISCOVERY** was served upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

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☐ First Class Mail
☐ Certified Mail
☐ Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY -7 PM 4:17
BY
DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,	)	CASE NO. CR-2013-864-FE-1A
)	
Plaintiff,)	
)	
vs.	)	DEFENDANT'S SECOND
	)	WITNESSES LIST
AMAN GAS,)	
)	
Defendant.)	
_____)	

Comes now the Defendant, Aman Gas, by and thorough his attorney, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and hereby disclose the following individuals who may be called to testify at trial:

Raushelle Goodin Guzman, 145 Hillcrest #38, Af, 269-0498 Msg

Andrea Ogolla, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854

Monique Hamblin, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854

Richard Sammons, 3132 Neeley, Af, 269-0498

Abhishek Dwivedi, 1222 Freeman Ln #139, Pocatello, 240-7736

Defendant's Second Witness List
Page - 1

Ann Wilcox RN, PMC

Curtis Sandy MD, PMC

Gina Sterner RN, PMC

Tracy Marshall, PPD

William Brown, PPD

Matthew Shutes, PPD

Tarl Lambson, PPD

Justin Buck, PPD

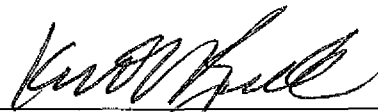
Jeffrey Eldridge, PPD

Troy Allbright, PMC

Eric Whiteside, PMC

Defendant reserves the right to supplement this list prior to trial.

Dated this 7 day of May, 2014.




KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7 day of May, 2014, I served a true and correct copy of the **DEFENDANT'S SECOND WITNESS LIST** was served upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

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☐ First Class Mail
☐ Certified Mail
☐ Facsimile



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY -8 PM 4:12
BY KH
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

)
) **CASE NO. CR-2013-864-FE-A**
)
) **SECOND MOTION IN LIMINE**
)
)
)
)
)
)
)

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V. Reynolds, Deputy Public Defender, and hereby moves this Court pursuant to Rules 401, 402 and 403, I.R.E., for its order as follows:

There are approximately eleven photographs purportedly taken during the purported sexual assault examination conducted by Ann Wilcox and taken at the Portneuf Medical Center. The majority of the pictures depict one portion of the alleged victims body and one depicts another portion of her body.

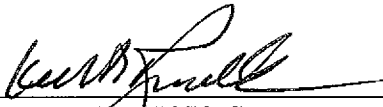
Second Motion in Limine
Page 1

Defendant moves for the exclusion of all of these photographs on the grounds and for the reasons that it is not relevant evidence, that if relevant, their prejudicial impact outweighs the probative value of the photographs, that it will only inflame the passions of the jury and unfairly prejudice the Defendant, that it is cumulative and redundant, that it may mislead the jury and result in a waste of judicial time and the introduction of the photographs would be an abuse of discretion.

Defendant refers the court to State v. Page, 135 Idaho 214, 16 P.3d 890 (2000). *See also* State v. Winn, 121 Idaho 850, 828 P. 2d 879 (1992).

In addition, the repetitive nature of the photographs are not relevant, and their prejudicial impact outweighs the probative value of the photographs, that it will only inflame the passions of the jury and unfairly prejudice the Defendant, that it is cumulative and redundant, that it may mislead the jury and result in a waste of judicial time. *Id.*

DATED this 8 day of May, 2014.

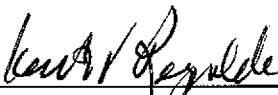

KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 8 day of May, 2014, I served a true and correct copy of the **SECOND MOTION IN LIMINE** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile



KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY -8 PM 4:12
BY AL
DEPUTY CLERK

Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE-A
Plaintiff,)	
	)	EIGHTH RESPONSE TO
v.	)	DISCOVERY REQUEST
)	
AMAN GAS,)	
)	
Defendant.)	
)	

TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205

COMES NOW the Defendant, Aman Gas, by and through his attorney, and responds to
the States Request for Discovery as follows:

1. Drawing/layout of apartment
Holligans
Another picture of Adrian Smart
Facebook pictures of Abhishel Dwivedi
cell phone pictures

Eighth Response to Discovery Request
Page 1

4. Other Witnesses

Leah Gardner, potential foundation witness, along with others, for photographs os Hyde apartment and the room measurements for room drawing/layout


Taigen Bolton, 204 N. Johnson, Pocatello, Idaho 83204, foundation witness along with others of Holligans picture and character witness

Abdul Alshabdu, friend who gave Aman Gas a ride home

Andrea Ogolla, Mokie Hamblin, Adrian Smart, 358 N. 13the, Pocatello, Idaho

Defendant reserves the right to supplement this response prior to trial.

Dated this 8 day of May 2014.



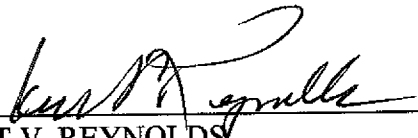
KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8 day of May 2014, I served a true and correct copy of the **EIGHTH RESPONSE TO REQUEST FOR DISCOVERY** was served upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

N
O
R
T
H

39' 4"
425 Hyde Street Basement Apartment

S
O
U
T
H

Adrian's
Bedroom

Andrea's
Bedroom

Living Room

12' 0"

11' 8"

13' 4"

13' 1"

3' 0"

8' 8"

Monique's "Mokie"
Bedroom

7' 8"

Bathroom

7' 6"

Kitchen/Dining

11' 4"

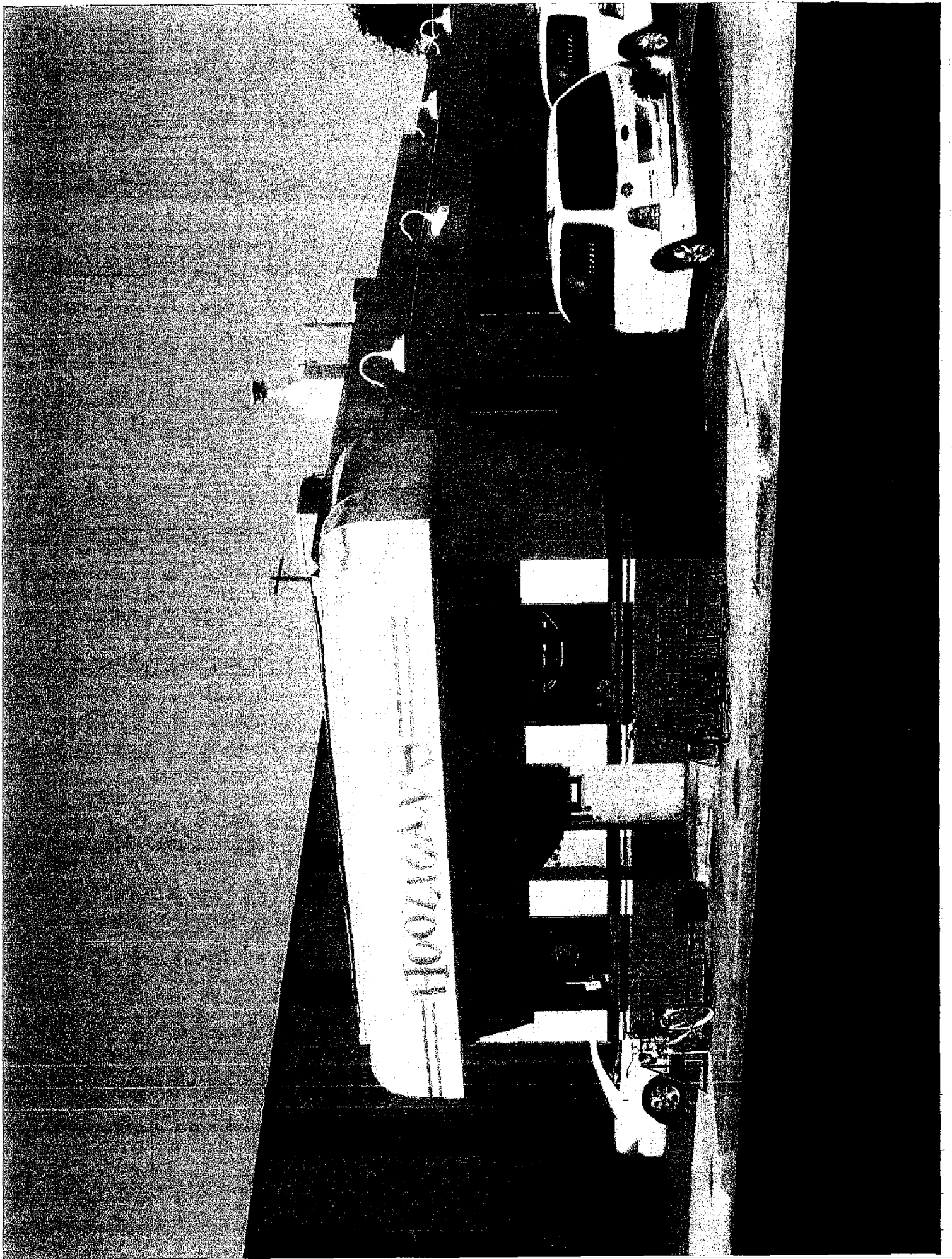
5' 7"

South to North:
1 inch = 4 feet
East to West:
1 inch = 4.03 feet

Entrance

9' 0"

33' 8"







Adrian Smart



Abhishek Dwivedi

July 28, 2013

Share

 51 people like this.

 View 7 more comments



Shubham Tripathi Abhis
raha hai tu.....

July 28, 2013 at 8:49am



Manish Shukla Bachma
lagta tha tu

July 28, 2013 at 9:22am



Shashi Kant abhishek d
abhishek bachchan

July 28, 2013 at 9:30am



Abhinav Bhati AD beta
tune toh

July 29, 2013 at 4:07am



Mohanish Chourey Bhai
shaving cream aor blade
m ek baar to bana sakte

July 29, 2013 at 7:49am



Virendra Shukla Islam a
superb pics....

July 30, 2013 at 9:57am



Vijay Krishnan



Taigen

Home



Vijay Krishnan Timeline ▾ 2013 ▾ Highlights ▾



Vijay Krishnan changed his profile picture.

September 7, 2013



Places · 2013

Visited 4 Places

Idaho Falls



Vijay Krishnan was at Gold's Gym of Pocatello and 3 other places.

See All Stories



Pocatello

© 2013 Microsoft Corporation
© 2013 Nokia

Likes · 2013



Kai Greene



Denver Broncos

+69

Like · Comment · Share

24 4

Jump to... ▾

gigalo's Photos





Raushelle Goodin-Guzman

Sat at 3:11am *

Hey anyone I need a ride and I really need a ride now please help me

2 comments

Like

Comment



Raushelle Goodin-Guzman

Sat at 4:29pm *

well folks catch ya on the darkside... i promise to be have if the media tells the truth lmao... guess that gives me some free play lol. night

1 like * 1 comment

Like

Comment



Raushelle Goodin-Guzman

shared Fab.com's photo.

Sat at 1:02pm *

i really want lol

About Friends Photos Mail

 Write Post  Share Photo



Raushelle Goodin-Guzman

Sat at 3:19pm *

I JUST WANT TO GO HOME PLEASE
ANYONE

Like

Comment



Raushelle Goodin-Guzman

Sat at 3:11pm *

Hey anyone I need a ride and I really
need a ride now please help me

2 comments

Like

Comment



Raushelle Goodin-Guzman

Sat at 4:13pm *



4G

92%

9:30 AM



Keypad



Logs



Favorites



Contacts



Archi

+1 208-227-4400

11:13PM



+1 208-240-7736

Idaho

11:03PM



1 208-220-3873

Idaho

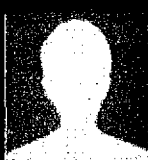
10:24PM



Adrian Smart

1 208-240-8035

7:58PM



1 208-240-7736

Idaho

7:15PM



1 208-220-3873

Idaho

6:35PM



1 208-220-3873

Idaho

(2)

5:41PM



Logan Thomas

1 208-760-0074

(2)

5:27PM



1 208-220-5601



E



92%

9:31 AM



Keypad



Logs



Favorites



Contacts



Jail

☎ 1 866-516-0115

10:39AM



Mommy Lou

☎ +1 208-406-9255

8:34AM



Aman-do

☎ 1 208-240-8826

6:14AM



1 208-240-7736

☎ Idaho

3:41AM



+1 208-240-7736 (3)

☎ Idaho

3:31AM



Aman-do

☎ 1 208-240-8826

1:09AM

01/19/2013



Aman-do

☎ 1 208-240-8826

11:23PM



Archi

☎ +1 208-227-4400

11:13PM

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY -9 AM 11:15
BY [Signature]
DEPUTY CLERK

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN GAS,

Defendant.

MINUTE ENTRY & ORDER

The parties, and their attorneys of record, in the above-entitled action are hereby advised that a jury trial is scheduled to commence on MONDAY, MAY 19, 2014 AT 1 P.M. before the Hon. Stephen S. Dunn in Courtroom 301 of the Bannock County Courthouse in Pocatello, Idaho.

Pursuant to Idaho Criminal Rules ("ICR") 12 and 18, the parties are hereby ORDERED to comply with the following scheduling order:

1. JURY INSTRUCTIONS: jury instructions shall be filed with the Court no later than MONDAY, MAY 12, 2014 AT 5 P.M.
2. MOTIONS: all motions in limine shall be heard no later than MONDAY, MAY 12, 2014.

DATED May 9, 2014.

[Signature]
STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9 day of May, 2014, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

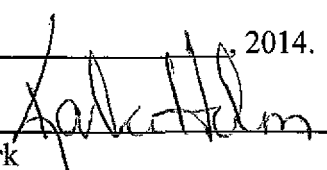
Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

DATED this 9 day of May, 2014.



Deputy Clerk

RANDALL D. SCHULTHIES
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 MAY -9 AM 11:39

BY KH
DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO

Plaintiff

v.

AMAN GAS,

Defendant.

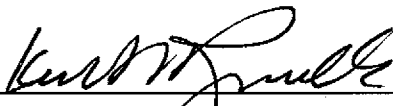
Case No. CR-2013-00864-FE-A

NOTICE OF HEARING

Monday, May 12, 2014
at 09:30 a.m.

PLEASE TAKE NOTICE that the undersigned will bring a 1ST AND 2ND
MOTION IN LIMINE before the **Honorable Stephen S. Dunn**, on **Monday, May 12,**
2014, at 09:30 a.m.

DATED this 9 day of May, 2014.

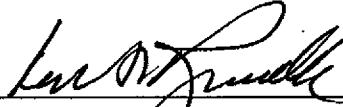

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 9 day of May, 2014, I served a true and correct copy of the **NOTICE OF HEARING** was served upon the parties below as follows:

Bannock County Prosecutors
Prosecutor's in-box, room 220
Bannock County Courthouse
Pocatello, ID 83205

☒ Hand Deliver



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 MAY -9 PM 3:34

BY KH
DEPUTY CLERK

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE-A
Plaintiff,)	
)	
vs.	)	RESPONSE TO EIGHTH
	)	DISCOVERY REQUEST
AMAN FARAH GAS,)	
)	
Defendant.)	
_____)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Eighth Request for Discovery as follows:

REQUEST NO. 1. Please identify which officer wrote the attached officer notes and the time of the interview and the location of the interview.

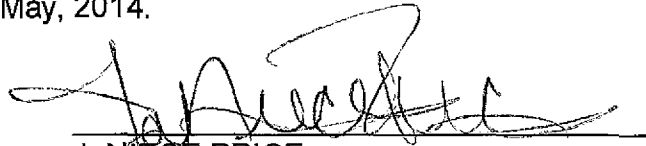
**RESPONSE NO. 1: Officer: Justin Buck, Date: 01/20/2013, early morning
hours, Location: 425 Hyde, Pocatello, ID**

REQUEST NO.2. Please provide a copy of any and all Spillman records for Abhishek Dwivedvi.

RESPONSE NO. 2: No History Shown.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 8th day of May, 2014.

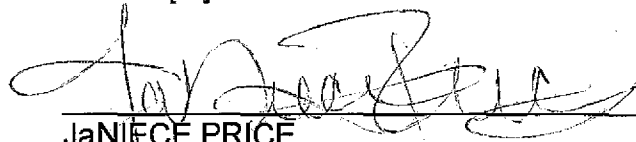

JaNIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 8th day of May, 2014, a true and correct copy of the foregoing EIGHTH RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ fax - 236-7048


JaNIECE PRICE

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY -9, PM 3:34
BY KH
DEPUTY CLERK

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE-A
Plaintiff,)	
)	
vs.	)	RESPONSE TO NINTH
	)	DISCOVERY REQUEST
AMAN FARAH GAS,)	
)	
Defendant.)	
_____)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

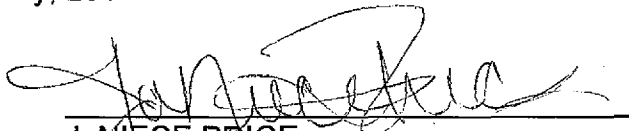
COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Ninth Request for Discovery as follows:

REQUEST NO. 1. Please produce a SPILLMAN Criminal History for the following individuals along with any known aliases and any addresses or other contact information for: Abhishek Dwivedi and Vijay Krishnan.

**RESPONSE NO. 1: Abhishek Dwivedi: No History Shown. Please refer to
Response No. 2 from the Eighth Discovery Response. Vijay Krishnan: No History
Shown.**

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 8th day of May, 2014.

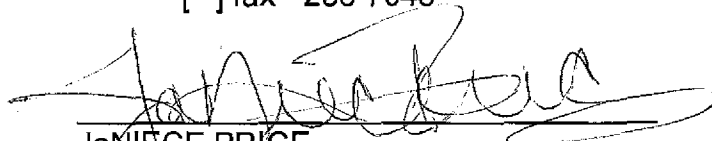

JaNIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 8th day of May, 2014, a true and correct copy of the foregoing NINTH RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

[] mail -
postage prepaid
☒ hand delivery
[] fax - 236-7048


JaNIECE PRICE

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY -9 PM 4:21
BY KIA
DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

vs.

AMAN GAS,

Defendant.

)
) **CASE NO. CR-2013-864-FE**
)
)
) **DEFENDANT'S THIRD**
) **WITNESSES LIST**
)
)
)
)
)
)

Comes now the Defendant, Aman Gas, by and thorough his attorney, Kent V. Reynolds,
Assistant Chief Deputy Public Defender, and hereby disclose the following individuals who may be
called to testify at trial:

dispatch officer

Matthew Shutes, PPD

Tarl Lambson, PPD

Nick Peterson, PPD

Jeffrey Eldridge, PPD

Defendant's Third Witness List
Page - 1

William Brown, PPD

Justin Buck, PPD

Tracy Marshall, PPD

Abhishek Dwivedi, 1222 Freeman Ln #139, Pocatello, 240-7736

Richard Sammons, 3132 Neeley, Af, 269-0498

Abdul Alshabdu

Andrea Ogolla, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854

Monique Hamblin, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854

Adrian Smart, known to the State

Curtis Sandy MD, PMC

Troy Allbright, PMC

Eric Whiteside, PMC

Leah Gardner

Taigen Bolton

Ann Wilcox RN, PMC

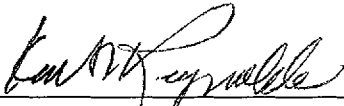
Gina Sterner RN, PMC

Aman Gas

Raushelle Goodin Guzman, 145 Hillcrest #38, Af, 269-0498 Msg

Defendant reserves the right to supplement this list prior to trial.

Dated this 7 day of May, 2014.

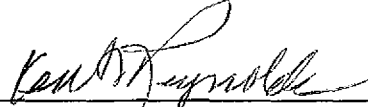

KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7 day of May, 2014, I served a true and correct copy of the **DEFENDANT'S THIRD WITNESS LIST** was served upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY -9 PM 4:22
BY KU
DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE
)	
Plaintiff,)	
	)	DEFENDANT'S FIRST
vs.	)	EXHIBIT LIST
)	
AMAN GAS,)	
)	
)	
Defendant.)	
_____)	

Comes now the Defendant, Aman Gas, by and thorough his attorney, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and hereby disclose the following exhibits which may be introduced and admitted at trial:

Photographs of the house and apartment

layout/drawing of the apartment

picture of Hooligans

Medical records of Aman Gas

Medical Records of Raushelle Guzman

Defendant's First Exhibit List
Page - 1

picture of Archie (LNU)

two pictures of Adrian Smart

PPD dispatch records

Aman Gas room drawing

Photographs of the alleged victim taken at PMC

Pictures of Abishek Dwidevdi

Facebook pictures from Andrea Ogolla's phone

Pictures of Richard Sammons cell phone

officer call records

audio recordings:

Aman Gas interview

Andrea Ogolla interview

Guzman Hyde recording

PMC 1 - Guzman interview

PMC 2 and Adi

PMC 3

Officer Eldridge transport recording

Officer Buck - PMC 001 (Lambson)

Officer Buck - PMC 0022 (Lambson)

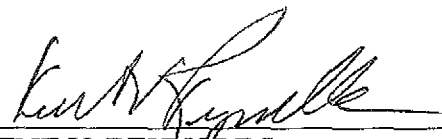
Picture of Aman Gas -

Defendant reserves the right to supplement this list prior to trial.

Defendant's First Exhibit List

Page - 2

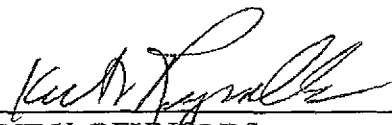
Dated this 9 day of May, 2014.


KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9 day of May, 2014, I served a true and correct copy of the **DEFENDANT'S FIRST EXHIBIT LIST** was served upon the parties below as follows:

Bannock County	<input checked="" type="checkbox"/> Hand Deliver
Prosecuting Attorney	<input type="checkbox"/> First Class Mail
Prosecutor's in-box, Room 220	<input type="checkbox"/> Certified Mail
Bannock County Courthouse	<input type="checkbox"/> Facsimile
Pocatello, Idaho 83205	


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 MAY -9 PM 4:22

BY KH
DEPUTY CLERK

Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE-A
Plaintiff,)	
	)	NINTH RESPONSE TO
v.	)	DISCOVERY REQUEST
)	
AMAN GAS,)	
)	
Defendant.)	
_____)	

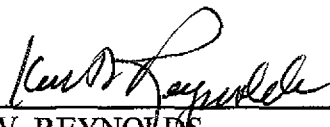
TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205

COMES NOW the Defendant, Aman Gas, by and through his attorney, and responds to
the States Request for Discovery as follows:

1. PPD Officer Arrival Summary
4. Nick Peterson, PPD known to the State
- Dispatch officer, PPD known to the State

Defendant reserves the right to supplement this response prior to trial.

Dated this 9 day of May 2014.



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9 day of May 2014, I served a true and correct copy of the **NINTH RESPONSE TO REQUEST FOR DISCOVERY** was served upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

Hyde Apartment

Pocatello Police Department Officer Arrival Summary

Based upon the officer call logs

3:43	Police Report: 911 call time
3:46	Dispatch
3:55	5213 Officer Shutes arrives at 425 Hyde
3:55	5261 Officer Lambson arrives at 425 Hyde
3:57	5260 Officer Peterson arrives at 425 Hyde
3:58	5262 Officer Eldridge arrives at 425 Hyde
3:58	5237 Officer Brown arrives at 425 Hyde
4:01	5162 Officer Buck arrives at 425 Hyde

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 MAY -9 PM 4: 22

BY KH
DEPUTY CLERK

Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE-A
Plaintiff,)	
	)	TENTH RESPONSE TO
v.	)	DISCOVERY REQUEST
)	
AMAN GAS,)	
)	
Defendant.)	
_____)	

TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205

COMES NOW the Defendant, Aman Gas, by and through his attorney, and responds to
the States Request for Discovery as follows:

1. The following documents may be introduced at trial

Picture of Aman Gas - still being acquired

January 2013 calendar

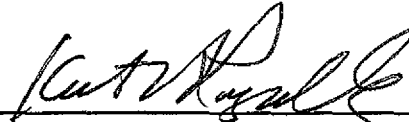
The following documents were produced by the State on the Evidence Disk:

Photographs of Richard Sammon's cell phone - Facebook postings

Photographs of Andrea Ogolla's cell phone - Facebook postings

Defendant reserves the right to supplement this response prior to trial.

Dated this 7 day of May 2014.



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7 day of May 2014, I served a true and correct copy of the **TENTH RESPONSE TO REQUEST FOR DISCOVERY** was served upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

Calendar for January 2013 (United States)

January						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		
Phases of the moon: 4: ☾ 11: ☿ 18: ☾ 26: ☾						
Holidays and Observances: 1: New Year's Day, 21: Martin Luther King Day						

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY -9 PM 4:22
BY KH
DEPUTY CLERK

Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

)
) CASE NO. CR-2013-864-FE-A
)
) DEFENDANT'S FIRST SET OF
) REQUESTED
) JURY INSTRUCTIONS
)
)
)
)
)


COMES NOW the Defendant, Aman Gas, acting by and through his attorney of record,
Kent V. Reynolds, Assistant Chief Deputy Public Defender of the Bannock County Public
Defender's Office, and hereby requests and submits the following Defendant's Requested Jury
Instructions as follows:

- A. Requested Jury Instructions: ICJI 101, 103 - 108, 201, 202, 205- 207, 232, 301,
304 and 305.
- B. Submitted Jury Instructions Nos. 1 through ~~4~~ 5

Defendant's First Set of Requested Jury Instructions
Page 1

Pen

DATED this 9 day of May, 2014.



KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9 day of May, 2014, I served a true and correct copy of the **DEFENDANT'S FIRST SET OF REQUESTED JURY INSTRUCTIONS** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile


KENT V. REYNOLDS
Deputy Public Defender

REQUESTED JURY INSTRUCTION NO. 1

In order for the defendant to be guilty of Battery, the state must prove each of the following:

1. On or about January 20, 2013
2. in the state of Idaho
3. the defendant Aman Gas committed a battery,
4. upon Raushelle Guzman
5. by touching her body.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

Comment

I.C. § 18-903.

The charging document apprises the defendant in general terms of the manner in which he is alleged to have committed the crime charged. If there is evidence of other uncharged conduct by the defendant which could also fit within the statutory definition of the crime charged and if the jury is merely instructed regarding the statutory definition of the crime, the defendant may be denied due process by being convicted for a crime different from that charged. *State v. Sherrod*, 131 Idaho 56, 951 P.2d 1283 (Ct. App. 1998). Therefore, in that circumstance the jury instruction should include, in general terms, the description of the conduct alleged in the charging document to constitute the crime charged.

REQUESTED JURY INSTRUCTION NO. 2

A "battery" is committed when a person:

- (1) willfully and unlawfully uses force or violence upon the person of another; or
- (2) actually, intentionally and unlawfully touches or strikes another person against the will of the other; or
- (3) unlawfully and intentionally causes bodily harm to an individual.

Comment

I.C. § 18-903. This instruction should be used when the commission of a battery is an element of another crime, e.g., IC § 18-911. The definition should be tailored to fit the allegations in the charging document. *State v. Brazil*, 136 Idaho 327, 33 P.3d 218 (Ct. App. 2001); *State v. Sherrod*, 131 Idaho 56, 951 P.2d 1283 (Ct. App. 1998).

GIVEN _____
REFUSED _____
MODIFIED _____
COVERED _____
OTHER _____

REQUESTED JURY INSTRUCTION NO. 3

In order for the defendant to be guilty of Rape, the state must prove each of the following:

1. On or about January 20, 2013
2. in the state of Idaho
3. the defendant Aman Gas caused his penis to penetrate, however slightly, the anal opening of Raushelle Guzman a female person,
4. she was unconscious of the nature of the act. "Unconscious of the nature of the act" means incapable of resisting because of one of the following conditions: she was unconscious or asleep.

ICJI 901

Comment

I.C. § 18-6101.

The requirement that the victim did not consent to the act of sexual intercourse is not expressly stated in the statute. In *State v. Andreason*, 44 Idaho 396, 257 P. 370 (1927), and *State v. Neil*, 13 Idaho 539, 90 P. 860 (1907), the Court stated that this was an element of the crime of forcible rape. In *State v. Fowler*, 13 Idaho 317, 324, 89 P. 757, 759 (1907), the Court addressed the provision in IC § 18-6101(3) relating to resistance of the victim but overcome by force and violence. The Court said:

Where the offense is charged as having been committed on a female not under legal disability to give consent to the act, the state must show beyond a reasonable doubt not only the sexual act, but that it was committed without the consent and against the will of the woman. There can be no rape in sexual intercourse by mutual consent where the female is capable of giving legal consent. In such case to prove the act alone amounts to nothing, unless, in the language of the statute ... it has been accomplished 'by force or violence.'

The Court rejected the notion that "unless she kicks, bites, scratches and screams to the utmost of her power and ability she will be deemed to have consented," stating that "What the assailant really meant to do, however, and the manner in which he meant to accomplish his purpose—whether by persuasion, force or fear—is a question of fact to be determined by the jury." In *State v. Lewis*, 96 Idaho 743, 536 P.2d 738 (1975), the Court addressed the provision in IC § 18-6101(4) relating to when the victim is prevented from resisting by threats of immediate and great bodily harm, accompanied by an apparent power of execution. The Court rejected the view that when a victim has not physically resisted the defendant from engaging in intercourse and when the defendant has neither

verbally threatened the victim or visibly displayed weaponry to the victim that as a matter of law the defendant has not committed rape. The Court held that a threat may be expressed by acts and conduct as well as through words or by a display or weaponry. As in *Neil*, the Court held that it is the province of the jury to weigh the evidence and determine whether there was a threat of force which resulted in a sexual act without the victim's consent. See also, *State v. Robran*, 119 Idaho 285, 805 P.2d 491 (Ct. App. 1991); *State v. Gossett*, 119 Idaho 581, 808 P.2d 1326 (Ct. App. 1991).

The fact that the defendant is not married to the victim is not an essential element of the crime of rape. Marriage to the victim is an affirmative defense that may be raised by the defendant in certain instances. IC § 18-6107; and *State v. Huggins*, 105 Idaho 43, 665 P.2d 1053 (1983).

If the defendant is charged under IC § 18-6101(6) and it is alleged that someone other than the defendant committed the rape of the victim, then this instruction will have to be modified to reflect that allegation.

Ability to give legal consent is properly defined in terms of (1) the ability to understand and appreciate the possible consequences of sexual intercourse, and (2) the ability to make a knowing choice. *State v. Soura*, 118 Idaho 232, 796 P.2d 109 (1990).

Battery with intent to commit rape is an included offense of forcible rape. *State v. Bolton*, 119 Idaho 846, 810 P.2d 1132 (Ct. App. 1991); See ICJI 225.

GIVEN _____
REFUSED _____
MODIFIED _____
COVERED _____
OTHER _____

REQUESTED JURY INSTRUCTION NO. 4

The defendant in this case has introduced evidence tending to show that the defendant was not present at the time and place of the commission of the alleged offense for which the defendant is here on trial. This is what is known as an alibi. If, after a consideration of all the evidence, you have a reasonable doubt that the defendant was present at the time the crime was committed, the defendant is entitled to an acquittal.

ICJI 1502

Comment

The committee recommends that no alibi instruction be given. The purpose of alibi evidence is to create a reasonable doubt as to whether it was the defendant who committed the crime charged. *State v. Sheehan*, 33 Idaho 553, 196 P. 532 (1921). The jury instructions typically given inform the jury that their verdict must be not guilty unless the state proves every material allegation of the offense beyond a reasonable doubt, including the allegation that the defendant committed the offense charged. These instructions adequately cover the same issue that is addressed by an alibi instruction. *State v. Ward*, 31 Idaho 419, 173 P. 497 (1918); *State v. Webb*, 6 Idaho 428, 55 P. 892 (1899); *State v. Nelson*, 112 Idaho 245, 731 P.2d 788 (Ct. App. 1987); *State v. Kay*, 108 Idaho 661, 710 P.2d 281 (Ct. App. 1985); and *State v. Elisondo*, 103 Idaho 69, 644 P.2d 992 (Ct. App. 1982). The jury does not need an alibi instruction in order to understand the significance of evidence showing that the defendant was not at the scene of the crime when it was committed. If the trial court decides to give an alibi instruction, however, the committee recommends that this instruction, based on *State v. Holm*, 93 Idaho 904, 478 P.2d 284 (1970), be given.

GIVEN _____
 REFUSED _____
 MODIFIED _____
 COVERED _____
 OTHER _____

REQUESTED JURY INSTRUCTION NO. 5

This criminal case has been brought by the state of Idaho. I will sometimes refer to the state as the prosecution. The state is represented at this trial by the prosecuting attorney, JaNiece Price . The defendant, Aman Gas , is represented by a lawyer, Kent Reynolds.

The defendant is charged by the state of Idaho with violation of law. The charge against the defendant is contained in the Information. The clerk shall read the Information and state the defendant's plea.

The Information is simply a description of the charge; it is not evidence.

ICJI 102

Comment

I.C. s 19-2101 requires that the clerk read the information or indictment in all felony cases.

GIVEN _____
REFUSED _____
MODIFIED _____
COVERED _____
OTHER _____

JURY INSTRUCTION NO. _____

In order for the defendant to be guilty of Battery, the state must prove each of the following:

1. On or about January 20, 2013
2. in the state of Idaho
3. the defendant Aman Gas committed a battery,
4. upon Raushelle Guzman
5. by touching her body.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

JURY INSTRUCTION NO. _____

A "battery" is committed when a person:

- (1) willfully and unlawfully uses force or violence upon the person of another; or
- (2) actually, intentionally and unlawfully touches or strikes another person against the will of the other; or
- (3) unlawfully and intentionally causes bodily harm to an individual.

JURY INSTRUCTION NO. ____

In order for the defendant to be guilty of Rape, the state must prove each of the following:

1. On or about January 20, 2013
2. in the state of Idaho
3. the defendant Aman Gas caused his penis to penetrate, however slightly, the anal opening of Raushelle Guzman a female person,
4. she was unconscious of the nature of the act. "Unconscious of the nature of the act" means incapable of resisting because of one of the following conditions: she was unconscious or asleep.

REQUESTED JURY INSTRUCTION NO. _____

The defendant in this case has introduced evidence tending to show that the defendant was not present at the time and place of the commission of the alleged offense for which the defendant is here on trial. This is what is known as an alibi. If, after a consideration of all the evidence, you have a reasonable doubt that the defendant was present at the time the crime was committed, the defendant is entitled to an acquittal.

JURY INSTRUCTION NO. 5


This criminal case has been brought by the state of Idaho. I will sometimes refer to the state as the prosecution. The state is represented at this trial by the prosecuting attorney, JaNiece Price . The defendant, Aman Gas , is represented by a lawyer, Kent Reynolds.

The defendant is charged by the state of Idaho with violation of law. The charge against the defendant is contained in the Information. The clerk shall read the Information and state the defendant's plea.

The Information is simply a description of the charge; it is not evidence.

BY 10/1
DEPUTY CLERK

DATED this 9 day of May, 2014.


KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9 day of May, 2014, I served a true and correct copy of the **THIRD MOTION IN LIMINE** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☐ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile



KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 MAY -9 PM 4:23

BY KH
DEPUTY CLERK

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

)
) CASE NO. CR-2013-864-FE-A
)
) OFFER OF PROOF IN SUPPORT
) OF THIRD MOTION IN LIMINE
)
)
)
)
)
)

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V.

Reynolds, Deputy Public Defender, and hereby submits the following as an offer of proof in support of the Third Motion in Limine

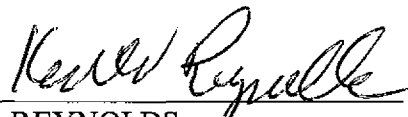
In a Facebook posting dated January 21, 2013 at or about 2:42 P.M., Raushelle Guzman, the alleged victim, asserts that she does not like anal sex. Testimony will be elicited primarily from Andrea Ogolla wherein she would testify that Ms. Guzman has participated in anal sex and has bragged to her about that participation. Times and dates and number of incidents are not known regarding the purported anal sex conduct. A portion of the posting is attached hereto and

Offer of Proof in Support Third Motion in Limine
Page 1

incorporated herein by reference.

Defendant preserves the right to use the posting, in its entirety or any portion thereof, for any and all evidentiary purposes.

DATED this 9 day of May, 2014.



KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 9 day of May, 2014, I served a true and correct copy of the **OFFER OF PROOF IN SUPPORT OF THIRD MOTION IN LIMINE** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile


KENT V. REYNOLDS
Deputy Public Defender



dad called the police i
stayed at the hospital for
four hours i have three
tares one goes all the way
in my ass i had to get shots
and pills and blood. they
took all my clothes. i was
scared confused and in pain
i hate anal and know i
wouldnt let walter put it
there. im still freaked and
confused cause i cant
remember from you
changing your pants to me
waking up to that fucking
creep.

Well I remember alot. But
sometimes alcohol and drugs
can change a persons
mindset of how things
happen. I don't think
anything was intentional

Write a message

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 12 PM 4:18
BY KLS
DEPUTY CLERK

JANIECE PRICE, ISB #7161
Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE-A
Plaintiff,)	
	)	STATE'S WITNESS LIST
vs.)	
)	
AMAN FARAH GAS,)	
)	
Defendant.)	
_____)	

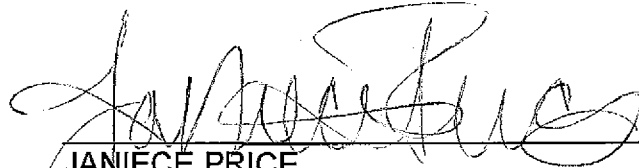
COMES NOW, the State of Idaho, by and through JANIECE PRICE, Deputy
Prosecuting Attorney in and for the County of Bannock, Idaho, and provides the following
listing of anticipated witnesses for trial in this case:

- Raushelle Goodin Guzman, 145 Hillcrest #38, Af, 269-0498 Msg
- Andrea Ogolla, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854
- Monique Hamblin, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854
- Richard Sammons, 3132 Neeley, Af, 269-0498
- Abhishek Dwivedi, 1222 Freeman Ln #139, Pocatello, 240-7736
- Ann Wilcox RN, PMC
- Curtis Sandy MD, PMC
- Gina Sterner RN, PMC
- Tracy Marshall, PPD
- William Brown, PPD
- Matthew Shutes, PPD
- Tarl Lambson, PPD
- Justin Buck, PPD

WITNESS LIST - Page 1

- Jeffrey Eldridge, PPD
- Jamie Femreite, ISP Forensic Lab - Meridian
- Rylene L. Nowlin, ISP Forensic Lab - Meridian

DATED this 12th day of May, 2014.



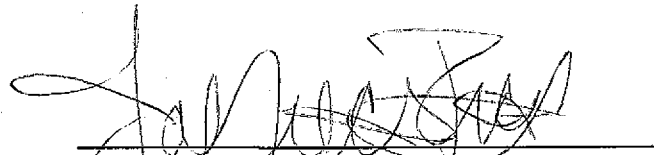
JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 12th day of May, 2014, a true and correct copy of the foregoing WITNESS LIST was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, ID

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile



JANIECE PRICE

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JANIECE PRICE, ISB #7161
Deputy Prosecuting Attorney

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 12 PM 4:18
BY *KU*
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE-A
Plaintiff,)	
	)	STATE'S EXHIBIT LIST
vs.)	
)	
AMAN FARAH GAS,)	
)	
Defendant.)	
_____)	

COMES NOW, the State of Idaho, by and through JANIECE PRICE, Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and provides the following listing of anticipated exhibits to be introduced at the time of trial in this case:

- Ogalla Interview Disc
- Gas Interview Disc
- Pocatello Police Department Report #13-P01084
- CD Containing:

911 call	gas hipaa form	officer browns notes
2013-01-23 REPORT 13-P01084	gas medical records	officer notes
130120_001 Ofc Buck w Gas	Goodin Guzman Hyde St	Ogolla
130120_002 Ofc Buck w Gas	Goodin Guzman PMC 1	Picture 001
adult rights form	Goodin Guzman PMC 2 and Dwivedi PMC	Picture 002
consent to search	Goodin Guzman PMC 3	Picture 086
criminal complaint	guzman hipaa form	Picture 087
discharge instructions	guzman medical records	Picture 088
Gas Criminal History	interview notes	sketch

2013-05-10 Lab Results

2013-05-31 Emails Prosecutor's office with Forensic Lab

2013-06-03 13-P01084 Marshall Supplement

2013-06-12 T. Marshall email re DNA on consensual partner

fb messages

phone call history

➤ Aman Gas Transport DVD

➤ Lab Evidence Disc Containing:

DVD RW Drive (D:) GAS LAB DISC ▶	DVD RW Drive (D:) GAS LAB DISC ▶	073113RLN_M20130247 ▶	▼	4
Burn to disc				

Files Currently on the Disc (8)

- 073113RLN_M20130247
- DNA - BIOLOGICAL INFO
- 2013-05-02 Lab Rpt with attachments
- 2013-08-27 Lab Rpt with attachments
- 2013-10-15 ISP Lab Letter re Disc
- ISP Forencis Serv. Proficiency Test Eval
- Lab= Evidence Submission Receipt Forms
- Lab= Notes and Emails

Files Currently on the Disc (13)

- 073113RLN
- 073113RLN_rein]
- 080713SEGRLN
- 082113RLN
- M20130247 Genotypes
- M20130247 Re-extraction 2 Genotypes
- M20130247 Re-Extraction 2 Table
- M20130247 Re-Extraction 2.ser
- M20130247 Re-extraction Genotypes
- M20130247 Re-Extraction Table
- M20130247 Re-Extraction.ser
- M20130247 Table
- M20130247.ser

DVD RW Drive (D:) GAS LAB DISC ▶	DNA - BIOLOGICAL INFO	▼	4	Se
Burn to disc				

Files Currently on the Disc (6)

- Biology QA Manual R15
- Biology Training Manual rev 2
- Biology_DNA_DNA DATABASE Abbreviations rev 0
- Casework Analytical methods R14
- CODIS Methods R13
- Database Analytical Methods R14

➤ Photos Taken as Part of SANE Exam

DATED this 12th day of May, 2014.


JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 12th day of May, 2014, a true and correct copy of the foregoing EXHIBIT LIST was delivered to the following:

KENT REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, ID 83201

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile


JANIECE PRICE

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P. O. BOX P
Pocatello, Idaho 83205-0050
(208) 236-7280

JANIECE PRICE, ISB #7161
Assistant Chief Deputy Prosecuting Attorney

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 12 PM 4:18
BY X
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN FARAH GAS,

Defendant.

CASE NO. CR-2013-864-FE-A

PLAINTIFF'S REQUESTED
JURY INSTRUCTIONS

Plaintiff respectfully requests the Court to give to the Jury the following Jury
Instruction numbered 1 through 23.

DATED this 12th day of May, 2014.


JANIECE PRICE


Assistant Chief Deputy Prosecuting Attorney
Bannock County, Idaho

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 12th day of May, 2014, a true and correct copy of the foregoing PLAINTIFF'S REQUESTED JURY INSTRUCTIONS was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, ID

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile



JANIECE PRICE

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 1

Now that you have been sworn as jurors to try this case, I want to go over with you what will be happening. I will describe how the trial will be conducted and what we will be doing. At the end of the trial, I will give you more detailed guidance on how you are to reach your decision.

Because the state has the burden of proof, it goes first. After the state's opening statement, the defense may make an opening statement, or may wait until the state has presented its case.

The state will offer evidence that it says will support the charge(s) against the defendant. The defense may then present evidence, but is not required to do so. If the defense does present evidence, the state may then present rebuttal evidence. This is evidence offered to answer the defense's evidence.

After you have heard all the evidence, I will give you additional instructions on the law. After you have heard the instructions, the state and the defense will each be given time for closing arguments. In their closing arguments, they will summarize the evidence to help you understand how it relates to the law. Just as the opening statements are not evidence, neither are the closing arguments. After the closing arguments, you will leave the courtroom together to make your decision. During your deliberations, you will have with you my instructions, the exhibits admitted into evidence and any notes taken by you in court.

Given	_____
Refused	_____
Covered	_____
Modified	_____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 2

This criminal case has been brought by the State of Idaho. I will sometimes refer to the state as the prosecution. The state is represented at this trial by the prosecuting attorneys, JANIECE PRICE and JEFF CRONIN. The defendant, AMAN FARAH GAS, is represented by a lawyer, KENT V. REYNOLDS.

The defendant is charged by the State of Idaho with violation of law. The charge against the defendant is contained in the Information. The clerk shall read the Information and state the defendant's plea.

The Information is simply a description of the charge; it is not evidence.

I.C. § 19-2101

Given	_____
Refused	_____
Covered	_____
Modified	_____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 3

Under our law and system of justice, the defendant is presumed to be innocent.

The presumption of innocence means two things.

First, the state has the burden of proving the defendant guilty. The state has that burden throughout the trial. The defendant is never required to prove his innocence, nor does the defendant ever have to produce any evidence at all.

Second, the state must prove the alleged crime beyond a reasonable doubt. A reasonable doubt is not a mere possible or imaginary doubt. It is a doubt based on reason and common sense. It is the kind of doubt which would make an ordinary person hesitant to act in the most important affairs of his or her own life. If after considering all the evidence you have a reasonable doubt about the defendant's guilt, you must find the defendant not guilty.

Taylor v. Kentucky, 436 U.S. 478 (1977)

Holland v. United States, 348 U.S. 121, 75 S.Ct. 127, 99 L.Ed. 150 (1954)

State v. Taylor, 76 Idaho 358, 362, 283 P.2d 582, 585 (1955).

Given _____
Refused _____
Covered _____
Modified _____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 4

Your duties are to determine the facts, to apply the law set forth in my instructions to those facts, and in this way to decide the case. In so doing, you must follow my instructions regardless of your own opinion of what the law is or should be, or what either side may state the law to be. You must consider them as a whole, not picking out one and disregarding others. The order in which the instructions are given has no significance as to their relative importance. The law requires that your decision be made solely upon the evidence before you. Neither sympathy nor prejudice should influence you in your deliberations. Faithful performance by you of these duties is vital to the administration of justice.

In determining the facts, you may consider only the evidence admitted in this trial. This evidence consists of the testimony of the witnesses, the exhibits offered and received, and any stipulated or admitted facts. The production of evidence in court is governed by rules of law. At times during the trial, an objection may be made to a question asked a witness, or to a witness' answer, or to an exhibit. This simply means that I am being asked to decide a particular rule of law. Arguments on the admissibility of evidence are designed to aid the Court and are not to be considered by you nor affect your deliberations. If I sustain an objection to a question or to an exhibit, the witness may not answer the question or the exhibit may not be considered. Do not attempt to guess what the answer might have been or what the exhibit might have shown. Similarly, if I tell you not to consider a particular statement or exhibit you should put it out of your mind, and not refer to it or rely on it in your later deliberations.

During the trial I may have to talk with the parties about the rules of law which should apply in this case. Sometimes we will talk here at the bench. At other times I will excuse you from the courtroom so that you can be comfortable while we work out any problems. You are not to speculate about any such discussions. They are necessary from time to time and help the trial run more smoothly.

Some of you have probably heard the terms "circumstantial evidence," "direct evidence" and "hearsay evidence." Do not be concerned with these terms. You are to consider all the evidence admitted in this trial.

However, the law does not require you to believe all the evidence. As the sole judges of the facts, you must determine what evidence you believe and what weight you attach to it.

There is no magical formula by which one may evaluate testimony. You bring with you to this courtroom all of the experience and background of your lives. In your everyday affairs you determine for yourselves whom you believe, what you believe, and how much weight you attach to what you are told. The same considerations that you use in your everyday dealings in making these decisions are the considerations which you should apply in your deliberations.

In deciding what you believe, do not make your decision simply because more witnesses may have testified one way than the other. Your role is to think about the testimony of each witness you heard and decide how much you believe of what the witness had to say.

A witness who has special knowledge in a particular matter may give an opinion on that matter. In determining the weight to be given such opinion, you should consider the qualifications and credibility of the witness and the reasons given for the opinion. You are not bound by such opinion. Give it the weight, if any, to which you deem it entitled.

Given	_____
Refused	_____
Covered	_____
Modified	_____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 5

If during the trial I may say or do anything which suggests to you that I am inclined to favor the claims or position of any party, you will not permit yourself to be influenced by any such suggestion. I will not express nor intend to express, nor will I intend to intimate, any opinion as to which witnesses are or are not worthy of belief; what facts are or are not established; or what inferences should be drawn from the evidence. If any expression of mine seems to indicate an opinion relating to any of these matters, I instruct you to disregard it.

Given	_____
Refused	_____
Covered	_____
Modified	_____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 6

Do not concern yourself with the subject of penalty or punishment. That subject must not in any way affect your verdict. If you find the defendant guilty, it will be my duty to determine the appropriate penalty or punishment.

Given	_____
Refused	_____
Covered	_____
Modified	_____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 7

It is alleged that the crime charged was committed "on or about" a certain date. If you find the crime was committed, the proof need not show that it was committed on that precise date.

I.C. § 19-1414

State v. Mundell, 66 Idaho 297, 158 P.2d 818 (1945)

Given	_____
Refused	_____
Covered	_____
Modified	_____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 8

It is important that as jurors and officers of this court you obey the following instructions at any time you leave the jury box, whether it be for recesses of the court during the day or when you leave the courtroom to go home at night.

First, do not talk about this case either among yourselves or with anyone else during the course of the trial. You should keep an open mind throughout the trial and not form or express an opinion about the case. You should only reach your decision after you have heard all the evidence, after you have heard my final instruction and after the final arguments. You may discuss this case with the other members of the jury only after it is submitted to you for your decision. All such discussion should take place in the jury room.

Second, do not let any person talk about this case in your presence. If anyone does talk about it, tell him or her you are a juror on the case. If they won't stop talking, report that to the bailiff as soon as you are able to do so. You should not tell any of your fellow jurors about what has happened.

Third, during this trial do not talk with any of the parties, their lawyers or any witnesses. By this, I mean not only do not talk about the case, but do not talk at all, even to pass the time of day. In no other way can all parties be assured of the fairness they are entitled to expect from you as jurors.

Fourth, during this trial do not make any investigation of this case or inquiry outside of the courtroom on your own. Do not go any place mentioned in the testimony without

an explicit order from me to do so. You must not consult any books, dictionaries, encyclopedias or any other source of information unless I specifically authorize you to do so.

Fifth, do not read about the case in the newspapers. Do not listen to radio or television broadcasts about the trial. You must base your verdict solely on what is presented in court and not upon any newspaper, radio, television or other account of what may have happened.

Given	_____
Refused	_____
Covered	_____
Modified	_____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 9

If you wish, you may take notes to help you remember what witnesses said. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. You should not let note taking distract you so that you do not hear other answers by witnesses. When you leave at night, please leave your notes in the jury room.

If you do not take notes, you should rely on your own memory of what was said and not be overly influenced by the notes of other jurors. In addition, you cannot assign to one person the duty of taking notes for all of you.

I.C. § 19-2203.

Given	_____
Refused	_____
Covered	_____
Modified	_____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 10

You have now heard all the evidence in the case. My duty is to instruct you as to the law.

You must follow all the rules as I explain them to you. You may not follow some and ignore others. Even if you disagree or don't understand the reasons for some of the rules, you are bound to follow them. If anyone states a rule of law different from any I tell you, it is my instruction that you must follow.

Given	_____
Refused	_____
Covered	_____
Modified	_____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 11

As members of the jury it is your duty to decide what the facts are and to apply those facts to the law that I have given you. You are to decide the facts from all the evidence presented in the case.

The evidence you are to consider consists of:

1. sworn testimony of witnesses;
2. exhibits which have been admitted into evidence; and
3. any facts to which the parties have stipulated.

Certain things you have heard or seen are not evidence, including:

1. arguments and statements by lawyers. The lawyers are not witnesses.

What they say in their opening statements, closing arguments and at other times is included to help you interpret the evidence, but is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, follow your memory;

2. testimony that has been excluded or stricken, or which you have been instructed to disregard;
3. anything you may have seen or heard when the court was not in session.

Given	_____
Refused	_____
Covered	_____
Modified	_____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 12

The original instructions and the exhibits will be with you in the jury room. They are part of the official court record. For this reason please do not alter them or mark on them in any way.

The instructions are numbered for convenience in referring to specific instructions. There may or may not be a gap in the numbering of the instructions. If there is, you should not concern yourselves about such gap.

Given	_____
Refused	_____
Covered	_____
Modified	_____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 13

Upon retiring to the jury room, select one of you as a presiding juror, who will preside over your deliberations. It is that person's duty to see that discussion is orderly; that the issues submitted for your decision are fully and fairly discussed; and that every juror has a chance to express himself or herself upon each question.

In this case, your verdict must be unanimous. When you all arrive at a verdict, the presiding juror will sign it and you will return it into open court.

Your verdict in this case cannot be arrived at by chance, by lot, or by compromise.

If, after considering all of the instructions in their entirety, and after having fully discussed the evidence before you, the jury determines that it is necessary to communicate with me, you may send a note by the bailiff. You are not to reveal to me or anyone else how the jury stands until you have reached a verdict or unless you are instructed by me to do so.

A verdict form suitable to any conclusion you may reach will be submitted to you with these instructions.

Given	_____
Refused	_____
Covered	_____
Modified	_____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 14

YOU ARE INSTRUCTED that the Defendant in this case, AMAN FARAH GAS,
has entered a not guilty plea to and is charged by an Information by STEPHEN F.
HERZOG, Prosecuting Attorney in and for the County of Bannock, State of Idaho with the
crime of RAPE, Idaho Code §18-6101(6)(a) and/or (b), which crime was alleged to have
been committed as follows, to wit:

That the said AMAN FARAH GAS, County of Bannock, State of Idaho, on
or about the 20th day of January, 2013, did penetrate with his penis the anal opening of a
female person, Raushelle M. Goodin Guzman, who at the time was unconscious of the
nature of the act.

All of which is contrary to the form, force and effect of the Statute in such case in
said State made and provided and against the peace and dignity of the State of Idaho.

Information on file

Given	_____
Refused	_____
Covered	_____
Modified	_____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 15

In order for the defendant to be guilty of Rape, the state must prove each of the following:

1. On or about 20th day of January, 2013
2. in the state of Idaho
3. the defendant, AMAN FARAH GAS caused his penis to penetrate, however slightly, the anal opening of Raushelle M. Goodin Guzman, a female person, and
4. Raushelle M. Goodin Guzman was, at the time, unconscious of the nature of the act.

If any of the above has not been proven beyond a reasonable doubt, then you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, you must find the defendant guilty.

I.C. § 18-6101.

State v. Andreason, 44 Idaho 396, 257 P. 370 (1927)

State v. Neil, 13 Idaho 539, 90 P. 860 (1907)

State v. Fowler, 13 Idaho 317, 324, 89 P. 757, 759 (1907)

State v. Lewis, 96 Idaho 743, 536 P.2d 738 (1975)

State v. Robran, 119 Idaho 285, 805 P.2d 491 (Ct. App. 1991)

State v. Gossett, 119 Idaho 581, 808 P.2d 1326 (Ct. App. 1991).

State v. Huggins, 105 Idaho 43, 665 P.2d 1053 (1983).

Given _____
Refused _____
Covered _____
Modified _____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 16

Any sexual penetration, however slight, constitutes engaging in an act of sexual intercourse. [Proof of ejaculation is not required.]

I.C. § 18-6103.

What Constitutes Penetration in Prosecution for Rape or Statutory Rape, 76 A.L.R. 3d 163 (1977).

People v. Karsai, 131 Cal. App. 3d 224, 182 Cal. Rptr. 406 (Cal. Ct. App. 1982

Given _____
Refused _____
Covered _____
Modified _____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 17

The law does not require as an essential element of the crime that the lust, passions, or sexual desires of either the defendant or Raushelle M. Goodin Guzman be actually aroused, appealed to, or gratified.

State v. Greensweig, 102 Idaho 794, 641 P.2d 340 (Ct. App. 1982).

Given	_____
Refused	_____
Covered	_____
Modified	_____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 18

In these instructions, the following words have the meanings stated.

"Sexual conduct" means sexual intercourse or deviate sexual intercourse.

"Sexual contact" means any touching of the sexual organs or other intimate parts of a person not married to the actor for the purpose of arousing or gratifying the sexual desire of either party.

I.C. § 18-5613(3).

Given	_____
Refused	_____
Covered	_____
Modified	_____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 19

"Unconscious of the nature of the act" means incapable of resisting because of one of the following conditions:

- (1) she was unconscious or asleep; or
- (2) she was not aware, knowing, perceiving, or cognizant that the act occurred.

Given	_____
Refused	_____
Covered	_____
Modified	_____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 20

Rape is defined as the penetration, however slight, of the oral, anal or vaginal opening with the perpetrator's penis accomplished with a female under either of the following circumstances:

1. Where the female is under the age of eighteen (18) years.
2. Where she is incapable, through any unsoundness of mind, whether temporary or permanent, of giving legal consent.
3. Where she resists but her resistance is overcome by force or violence.
4. Where she is prevented from resistance by threats of immediate and great bodily harm, accompanied by apparent power of execution; or by any intoxicating, narcotic, or anesthetic substance administered by or with the privity of the accused.
5. Where she is at the time unconscious of the nature of the act, and this is known to the accused.
6. Where she submits under the belief that the person committing the act is her husband, and the belief is induced by artifice, pretense or concealment practiced by the accused, with intent to induce such belief.

Given _____
Refused _____
Covered _____
Modified _____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 21

It is for you, the jury, to determine from all the evidence in this case, applying the law as given in these instructions, whether defendant is guilty or not guilty of the offense charged.

With respect to the facts alleged in the Information, it is possible for you to return any one, but only one of the following verdicts:

 GUILTY of RAPE.

 NOT GUILTY of RAPE.

Given	<u> </u>
Refused	<u> </u>
Covered	<u> </u>
Modified	<u> </u>

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 22

In order for the defendant to be guilty of Battery with Intent to Commit the Infamous Crime Against Nature, the state must prove each of the following:

1. On or about 20th day of January, 2013
2. in the state of Idaho
3. the defendant, AMAN FARAH GAS, committed a battery upon Raushelle M. Goodin Guzman and
4. when committing such battery the defendant had the intent to penetrate, however slightly, the anal opening of Raushelle M. Goodin Guzman with the defendant's penis.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

I.C. § 18-911.

Given	_____
Refused	_____
Covered	_____
Modified	_____

PLAINTIFF'S REQUESTED
INSTRUCTION NO. 23

It is for you, the jury, to determine from all the evidence in this case, applying the law as given in these instructions, whether defendant is guilty or not guilty of the offense charged.

With respect to the facts alleged in the Information, it is possible for you to return any one, but only one of the following verdicts:

_____ **GUILTY** of BATTERY WITH INTENT TO COMMIT INFAMOUS CRIME
AGAINST NATURE.

_____ **NOT GUILTY** of BATTERY WITH INTENT TO COMMIT INFAMOUS CRIME
AGAINST NATURE.

Given _____
Refused _____
Covered _____
Modified _____

COURT MINUTES

CR-2013-0000864-FE

State of Idaho vs. Aman F Gas

Hearing type: Motion

Hearing date: 5/12/2014

Time: 11:15 am

Judge: Stephen S Dunn

Courtroom: Room #301, Third Floor

Court reporter: Sheri Nothelphim

Minutes Clerk: Karla Holm

Tape Number:

Defense Attorney: Kent Reynolds

Prosecutor: JaNiece Price

-
- 1115 Motions in Limine; Reynolds regarding 1st Motion in Limine – opening argument;
- 1116 State ; Court Motion denied;
- 1117 2nd Motion in Limine-photographs during sexual assault examination; State argument;
- 1118 Court request photographs submitted in chambers; Court will issue ruling then;
- 1119 3rd Motion in Limine ; Reynolds argument
- 1121 Court not ruling today;
- 1122 State ; Court;
- 1123 Court
- 1124 Reynolds; State

1125 Court;

1127 Reynolds motion for street clothing; granted;

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 MAY 14 AM 8:41

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
BY KH DEPUTY CLERK

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN GAS,

Defendant.

MINUTE ENTRY & ORDER

On May 12, 2014, the above named Defendant appeared in Court with his counsel, Kent V. Reynolds, for a hearing on Defendant's First, Second and Third Motions in Limine. JaNiece Price, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheri Nothelphim performed as Court Reporter for this proceeding.

The Court heard argument regarding the Defendant's First Motion in Limine from counsel. The Court **DENIED** the Defendant's First Motion in Limine.

The Court heard argument regarding the Defendant's Second Motion in Limine from Counsel. The Court requested a copy of the photographs submitted prior to the trial. The Court advised that it would issue a ruling after viewing the photographs.

The Court heard argument regarding the Defendant's Third Motion in Limine. The Court advised that it would reserve a ruling on this Motion until trial.

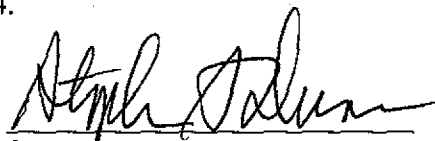
Register CR-2013-00864-FE

MINUTE ENTRY & ORDER

Page 1

Counsel for the Defendant requested that the Defendant be allowed to appear in street clothing for the trial. The Court granted the request.

DATED May 13, 2014.


STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14 day of May, 2014, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Bannock County Jail

☐ U.S. Mail
☐ Email
☒ Hand Deliver
☐ Facsimile

DATED this 14 day of May, 2014.

[Signature]
Deputy Clerk

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 14 PM 4:48
BY *KH*
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-13-864-FE-A
Plaintiff,)	
)	
vs.	)	RESPONSE TO SEVENTH
	)	DISCOVERY REQUEST
AMAN FARAH GAS,)	
)	
Defendant.)	
_____)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Fifth Request for Discovery as follows:

REQUEST NO. 1. Regarding the initial DNA samples obtained in this matter, Samples 1 and 2, please provide the following information: Who took the samples, Location where the sample was obtained, Identification numbers for the sample, Date sent to Idaho State Forensic Lab, Date Received, Who Received the sample.

RESPONSE NO. 1: Previously provided in discovery.

REQUEST NO. 2: Regarding sample taken from Abhishek Dwivedi, Sample 3, please provide the following information: Who took the sample if it was other than Detective Marshall, Identification numbers for the sample, Date sent to Idaho State Forensic Lab, Date Received, Who received the sample.

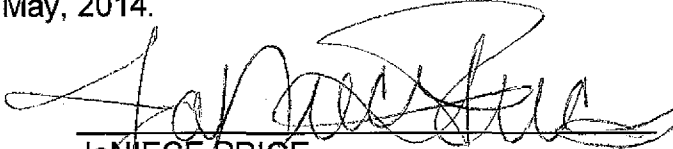
RESPONSE NO. 2: Previously provided in discovery.

REQUEST NO. 3: Please disclose the following regarding Sample 3, Abhishek Dwivedi: Current Location, When it was sent to the State Forensic Lab, If returned to Pocatello Police Department, date it was returned and current locker number.

RESPONSE NO. 3: Previously provided in discovery.

The State reserves the right to supplement this response upon receipt of such evidence.

DATED this 13th day of May, 2014.



JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 13th day of May, 2014, a true and correct copy of the foregoing SEVENTH RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

[] mail -
postage prepaid
☒ hand delivery
[] fax - 236-7048


JANIECE PRICE

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 14 PM 5:10
BY KV
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,)	CASE NO. CR-2013-864-FE-A
)	
Plaintiff	)	MOTION TO TAKE WITNESSES
v.	)	TESTIMONY OUT OF ORDER
)	
AMAN GAS,)	
)	
Defendant.)	
_____)	

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V. Reynolds, Deputy Public Defender, and hereby moves this Court for its order to allow Defendant to call Officer Eldridge and Andrea Ogolla out of order on the grounds and for the reasons that:

1. Officer Eldridge is in training in Boise on Tuesday, May 20, 2014. Officer Eldridge has a child who is graduating from high school on Thursday, May 22, 2014. They are scheduled to take a five to seven day vacation beginning the morning of May 23, 2014. Officer Eldridge has been subpoenaed to appear and testify for the following dates: May 20, 21, 22 and 23. Officer Eldridge has been advised to appear on Wednesday, both in

Motion to Take Witnesses Out of Order
Page 1

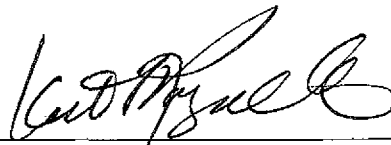
the morning and afternoon to testify.

2. Andrea Ogolla has been subpoenaed by the Defendant to appear on May 21, 22, 23 and 24, 2014. Ms. Ogolla may have potential work conflicts for Thursday, May 23, and Friday May 24 2014. She has been trying to arrange her schedule to be available to testify on Wednesday, May 21, 2014. In addition, information has been received indicating the State has also subpoenaed her to testify, but the date(s) of the State's subpoena is unknown.

Defendant requests the court to issue an order allowing their testimony to be taken out of order and to allow Officer Eldridge to testify on Wednesday, May 21, 2014, and for ms. Ogolla to testify on days other than when she is scheduled to work so that she can maintain her employment.

Oral argument is requested.

DATED this 14 day of May, 2014.



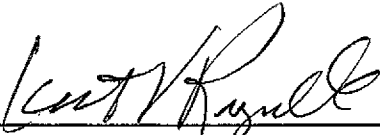
KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14 day of May, 2014, I served a true and correct copy of the **MOTION TO TAKE WITNESSES TESTIMONY OUT OF ORDER** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile



KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 15 PM 5:12
BY KH
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE-A
Plaintiff,)	
	)	ELEVENTH RESPONSE TO
v.	)	DISCOVERY REQUEST
)	
AMAN GAS,)	
)	
Defendant.)	
)	

TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205

COMES NOW the Defendant, Aman Gas, by and through his attorney, and responds to
the States Request for Discovery as follows:

1. Two Facebook Profile Picture for Raushelle Guzman
4. Abdullah Alshehab, alshabdu@isu.edu; corrected name from Abdul Alshabdu, friend
who gave Aman Gas a ride home

Defendant reserves the right to supplement this response prior to trial.

Dated this 15 day of May 2014.



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15 day of May 2014, I served a true and correct copy of the **ELEVENTH RESPONSE TO REQUEST FOR DISCOVERY** was served upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

https://www.facebook.com/171455046142071/?ref=la Raushelle Goodin-Guzman April Home

File Edit View Favorites Tools Help Page Safety Tools

Raushelle Goodin-Guzman April Home

 **Raushelle Goodin-Guzman** Add Friend Message


Timeline About Photos Friends More

DO YOU KNOW RAUSHELLE?

To see what she shares with friends, send her a friend request. Add Friend

ABOUT

CNA et Belmont Management
July 26, 2013 in protest

 **Raushelle Goodin-Guzman** changed her cover photo.
November 10, 2013

Sponsored (1) See All

Egyptian Soft Sheets \$28
nonstoprack.com
Overstock Clearance: 8-
Perce 1800 Series
Egyptian Soft Bedsheets
Only \$28. Grab Yours
Now!

Color In Motion 6K Run
colorinmotion5k.com
Join The Color:
Movement™ as we get
your Family In Motion!
Buy a Family Pack today!

Michael Sallick likes this

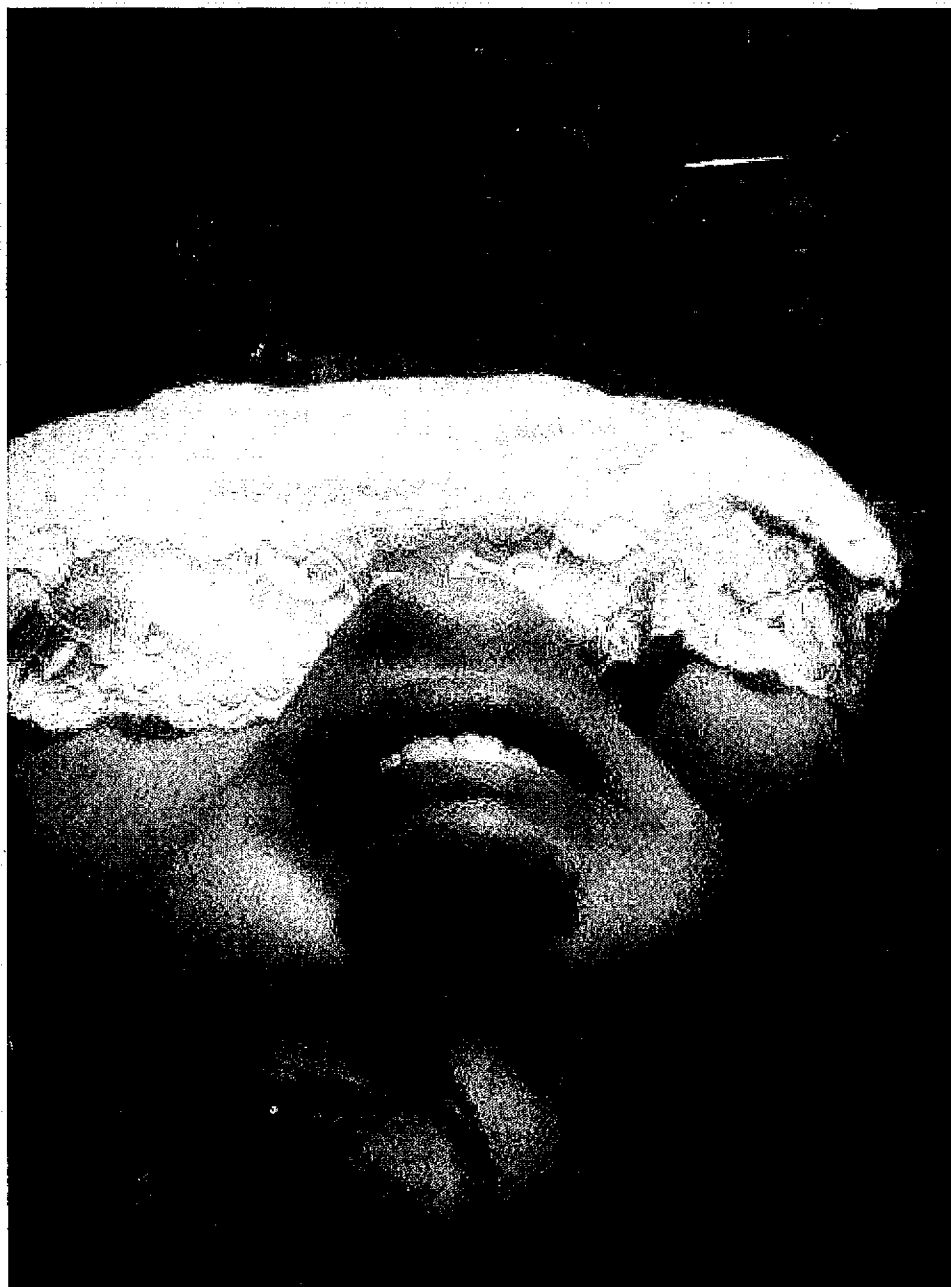
Sears
We want your feedback.
Like the Sears page for
deals, discounts and
customer service.

Like Page - Jacqueline Toy likes this page

Recent
2013
2012
2011
2010

Chat (18)

140%
03:32 PM
7/29/2013



Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 15 PM 5:12
BY KH
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

)
) CASE NO. CR-2013-864-FE-A
)
)

) SECOND MOTION TO TAKE
) WITNESSES TESTIMONY OUT
) OF ORDER
)
)
)
)

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V.

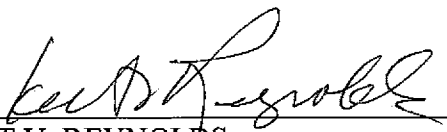
Reynolds, Deputy Public Defender, and hereby moves this Court for its order to allow Defendant to call Officer Eldridge and Andrea Ogolla out of order on the grounds and for the reasons that:

Adrian Smart and Monique "Mokie" Hamblin are trying to arrange their travel schedules and work schedules to appear pursuant to subpoenas. To reduce the hardship, Defendant requests the court to issue an order allowing their testimony to be taken out of order and to allow them to testify on either Tuesday May, 20, 2014, or on Wednesday, May 21, 2014.

Oral argument is requested.

Second Motion to Take Witnesses Out of Order
Page 1

DATED this 15 day of May, 2014.



KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15 day of May, 2014, I served a true and correct copy of the **SECOND MOTION TO TAKE WITNESSES TESTIMONY OUT OF ORDER** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile


KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 16 PM 10:27
BY KH
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

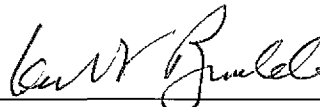
)
) **CASE NO. CR-2013-864-FE-A**
)
) **SECOND MOTION TO COMPEL**
)
)
)
)
)
)

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V. Reynolds, Deputy Public Defender, and hereby moves this Court pursuant to Rule 16, Idaho Criminal Rules, for its order compelling the State to respond to Defendant's Seventh Discovery Motion or in the alternative excluding the purported DNA evidence and the source of the purported DNA evidence due to the State's failure to respond to the request and supply the chain of custody information or on the grounds that the State cannot provide the required chain of custody information.

Oral argument is requested.

Second Motion to Compel
Page 1

DATED this 16 day of May, 2014.



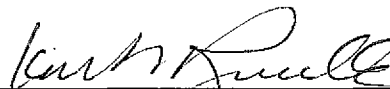
KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 16 day of May, 2014, I served a true and correct copy of the **SECOND MOTION TO COMPEL** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Deputy Public Defender

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY -1 PM 3:55
BY _____
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

vs.

AMAN GAS,

Defendant.

CASE NO. CR-2013-864-FE

SEVENTH DISCOVERY MOTION

**TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205**

Comes now the Defendant, Aman Gas, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Regarding the initial DNA samples obtained in this matter, Samples 1 and 2, please provide the following information:

Who took the sample(s)

**Seventh Discovery Motion
Page - 1**

Location where sample was obtained

Identification numbers for the sample

Date sent to Idaho State Forensic Lab

Date Received

Who received the sample

2. Regarding sample taken from Abhishek Dwivedi, Sample 3, please provide the following information:

Who took the sample if it was other than Detective Marshall

Identification numbers for the sample

Date sent to Idaho State Forensic Lab

Date Received

Who received the sample

3. Please disclose the following regarding Sample 3, Abhishek Dwivedi:

Current location

When it was sent to the State Forensic Lab

If returned to Pocatello Police Department, date it was returned and current locker number.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 7 day of May, 2014.


KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7 day of May, 2014, I served a true and correct copy of the **SEVENTH DISCOVERY MOTION** upon the parties below as follows:

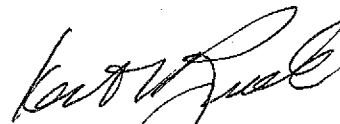
Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail Bannock County
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Deputy Public Defender

FILED
BANKS COUNTY
CLERK OF THE COURT
2014 MAY 15 PM 10:21
BY
DEPUTY CLERK

DATED this 16 day of May, 2014.



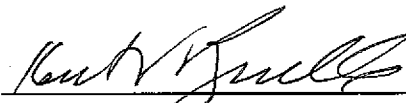
KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 16 day of May, 2014, I served a true and correct copy of the **FOURTH MOTION IN LIMINE** upon the party below as follows:

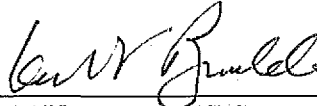
Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Deputy Public Defender

DATED this 16 day of May, 2014.



KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16 day of May, 2014, I served a true and correct copy of the **SECOND MOTION TO COMPEL** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Deputy Public Defender

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY -1 PM 3:55
BY _____
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,)	CASE NO. CR-2013-864-FE
)	
Plaintiff,)	
	)	SEVENTH DISCOVERY MOTION
vs.)	
)	
AMAN GAS,)	
)	
Defendant.)	
_____)	

**TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205**

Comes now the Defendant, Aman Gas, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Regarding the initial DNA samples obtained in this matter, Samples 1 and 2, please provide the following information:

Who took the sample(s)

Location where sample was obtained

Identification numbers for the sample

Date sent to Idaho State Forensic Lab

Date Received

Who received the sample

2. Regarding sample taken from Abhishek Dwivedi, Sample 3, please provide the following information:

Who took the sample if it was other than Detective Marshall

Identification numbers for the sample

Date sent to Idaho State Forensic Lab

Date Received

Who received the sample

3. Please disclose the following regarding Sample 3, Abhishek Dwivedi:

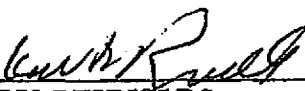
Current location

When it was sent to the State Forensic Lab

If returned to Pocatello Police Department, date it was returned and current locker number.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 7 day of May, 2014.



KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7 day of May, 2014, I served a true and correct copy of the **SEVENTH DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail Bannock County
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Deputy Public Defender

RANDALL D. SCHULTHIES
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 16 PM 4:10
BY KLD
DEPUTY CLERK

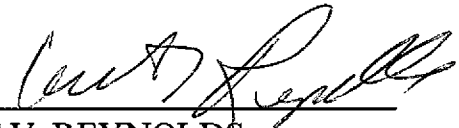
KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO)	
	)	Case No. CR-2013-00864-FE-A
Plaintiff)	
)	
v.)	
	)	NOTICE OF HEARING
AMAN GAS,)	
	)	Monday, May 19, 2014
Defendant.	)	at 09:30 a.m.
_____)	

PLEASE TAKE NOTICE that the undersigned will bring a **SECOND**
MOTION TO COMPEL before the **Honorable Stephen S. Dunn**, on **Monday, May**
19, 2014, at 09:30 a.m.

DATED this 16 day of May, 2014.



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 06 day of May, 2014, I served a true and correct copy of the **NOTICE OF HEARING** was served upon the parties below as follows:

Bannock County Prosecutors
Prosecutor's in-box, room 220
Bannock County Courthouse
Pocatello, ID 83205

☒ Hand Deliver



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

RANDALL D. SCHULTHIES
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 16 PM 4:10
BY AK
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO)

Plaintiff)

v.)

AMAN GAS,)

Defendant.)

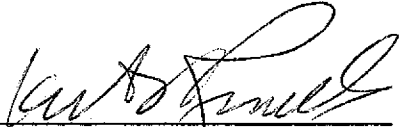
Case No. CR-2013-00864-FE-A

NOTICE OF HEARING

Monday, May 19, 2014
at 09:30 a.m.

PLEASE TAKE NOTICE that the undersigned will bring a **FOURTH**
MOTION IN LIMINE before the **Honorable Stephen S. Dunn**, on **Monday, May 19,**
2014, at 09:30 a.m.

DATED this 16 day of May, 2014.



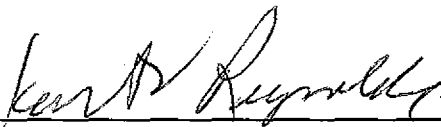
KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 16 day of May, 2014, I served a true and correct copy of the **NOTICE OF HEARING** was served upon the parties below as follows:

Bannock County Prosecutors
Prosecutor's in-box, room 220
Bannock County Courthouse
Pocatello, ID 83205

☒ Hand Deliver



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 16 PM 10:27
BY KH
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

)
) **CASE NO. CR-2013-864-FE-A**
)
) **MOTION TO DISQUALIFY**
)
)
)
)
)
)

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V. Reynolds, Deputy Public Defender, and pursuant to Rule 25, I.C.R. and moves this court for disqualification for cause on the grounds and for the reasons that the Court is biased or prejudiced against the Defendant in that the Court in a status conference held on May 15, 2014, the Court made a pretrial decision in favor of the State indicating that it would not require the State to establish chain of custody for the purported DNA samples and evidence and would allow the evidence to be admitted without the proper chain of custody foundation. This pre-trial decision indicates that the court has pre-judged the evidence without the benefit of any evidence

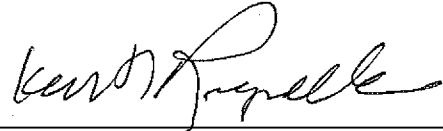
Motion to Disqualify

Page 1

being presented and has made a ruling favoring the State suggesting the court cannot be fair and impartial.

Oral argument is requested.

DATED this 16 day of May, 2014.



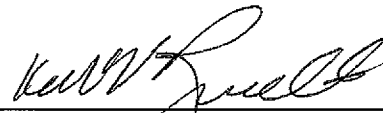
KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16 day of May, 2014, I served a true and correct copy of the MOTION TO DISQUALIFY upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile



KENT V. REYNOLDS
Deputy Public Defender

BANNOCK COUNTY PUBLIC DEFENDERS

RANDALL D. SCHULTHIES - Chief
DAVID R. MARTINEZ - Chief Deputy
KENT V. REYNOLDS - Assistant Chief Deputy
TAWNIA R. HAINES - Felony Deputy
JOSH BISHOP - Misdemeanor Deputy
LINDSEY A. BLAKE - Misdemeanor Deputy
RILIE M. FRY - Misdemeanor Deputy
JAY E. FUSON - Juvenile/Misdemeanor Deputy

JANELLE CHRISTENSEN - Lead Legal Secretary/Office Manager
JULIANNE JONES - Legal Secretary
CINDY DICKMAN - Legal Secretary
APRIL GRAHAM - Legal Secretary
JENNIFER MARIANI - Legal Secretary/Receptionist
MANDY MILLER - Secretary/File Clerk

Bannock County Courthouse
P.O. Box 4147
Pocatello, Idaho 83205
(208) 236-7040/FAX 236-7048

May 13, 2014

JaNiece Price
Office of the Prosecuting Attorney
Prosecutor's In box
Bannock County Courthouse
Pocatello, Idaho 83205

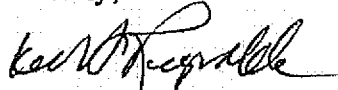
Re: State v. Aman Gas

Dear JaNiece:

This letter is in response to your email inquiry regarding chain of custody witnesses. Please be advised that I cannot stipulate to chain of custody. To do so, would be unethical and constitute ineffective assistance of counsel.

If you have any additional questions regarding the foregoing, please do not hesitate to contact me.

Sincerely,



Kent V. Reynolds
Assistant Chief Public Defender

BANNOCK COUNTY PUBLIC DEFENDERS

RANDALL D. SCHULTHIES - Chief
DAVID R. MARTINEZ - Chief Deputy
KENT V. REYNOLDS - Assistant Chief Deputy
TAWNIA R. HAINES - Felony Deputy
JOSH BISHOP - Misdemeanor Deputy
LINDSEY A. BLAKE - Misdemeanor Deputy
RILIE M. FRY - Misdemeanor Deputy
JAY E. FUSON - Juvenile/Misdemeanor Deputy



Bannock County Courthouse
P.O. Box 4147
Pocatello, Idaho 83205
(208) 236-7040/FAX 236-7048

JANELLE CHRISTENSEN - Lead Legal Secretary/Office Manager
JULIANNE JONES - Legal Secretary
CINDY DICKMAN - Legal Secretary
APRIL GRAHAM - Legal Secretary
JENNIFER MARIANI - Legal Secretary/Receptionist
MANDY MILLER - Secretary/File Clerk

May 15, 2014

JaNiece Price
Office of the Prosecuting Attorney
Prosecutor's In box
Bannock County Courthouse
Pocatello, Idaho 83205

Re: State v. Aman Gas

Dear JaNiece:

This letter is in follow up to our brief discussion on May 14, 2014, regarding chain of custody matters. I refer you to my previous letter. If you want the Court to review this matter, please file the appropriate motion.

If you have any additional questions regarding the foregoing, please do not hesitate to contact me.

Sincerely,

Kent V. Reynolds
Assistant Chief Public Defender

* * * Communication Result Report (May. 15. 2014 11:28AM) * * *

13

Date/Time: May. 15. 2014 11:26AM

File No.	Mode	Destination	Pg(s)	Result	Page Not Sent
5819	Memory TX	Bannock Pros	P. 1	OK	

Reason for error

E. 1) Hang up or line fail
 E. 3) No answer
 E. 5) Exceeded max. E-mail size

E. 2) Busy
 E. 4) No facsimile connection

BANNOCK COUNTY PUBLIC DEFENDERS

RANDALL D. SCHULTHEIS - Chief
 DAVID R. MARTINEZ - Chief Deputy
 KENT V. REYNOLDS - Assistant Chief Deputy
 YAUHUA R. HUIJINES - Factory Deputy
 JOSH BISHOP - Warden/Deputy
 LINDSEY A. BLAKE - Warden/Deputy
 KYLEE M. FRY - Warden/Deputy
 JAY E. RUDON - Juvenile/Warden/Deputy



JANELL CHRISTENSEN - Lead Legal Secretary/Office Manager
 JULIANNE JONES - Legal Secretary
 CINDY DICOMAN - Legal Secretary
 APRIL GRAMMAN - Legal Secretary
 JENNIFER MAXLAME - Legal Secretary/Receptionist
 MANDY MILLER - Secretary/File Clerk

Bannock County Courthouse
 Pocatello, Idaho 83205
 (208) 237-7171

May 15, 2014

JaNiece Price
 Office of the Prosecuting Attorney
 Prosecutor's In box
 Bannock County Courthouse
 Pocatello, Idaho 83205

Re: State v. Aman Gas

Dear JaNiece:

This letter is in follow up to our brief discussion on May 14, 2014, regarding chain of custody matters. I refer you to my previous letter. If you want the Court to review this matter, please file the appropriate motion.

If you have any additional questions regarding the foregoing, please do not hesitate to contact me.

Sincerely,

Kent V. Reynolds
 Kent V. Reynolds
 Assistant Chief Public Defender

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
Telephone (208) 236-7280

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 16 PM 2:13
BY JH
DEPUTY CLERK

JANIECE PRICE, ISB #7161
Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR-13-864-FE
)	
vs.	)	STATE'S FIRST MOTION
	)	IN LIMINE
AMAN FARAH GAS,)	
)	
Defendant.)	
_____)	

COMES NOW the State of Idaho, by and through JANIECE PRICE, Deputy Prosecuting Attorney, in and for the County of Bannock, State of Idaho, and moves the Court for an Order not allowing testimony of witnesses, presentation of documentation, photographs and physical evidence regarding the following:

Defendant Witnesses:

PMC Witnesses:

Troy Albright, PMC;
Eric Whitesides, PMC;
Curtis Sandy, PMC. Leah Gardner – no address;

Other Witnesses:

Taigen Bolton – no address;

Abdul Alshehab – no address

Adrian Smart – no address

Defendant's Exhibits:

Photographs of house and apartment

Picture of Hooligans

Picture of Archie (LNU)

Two Pictures of Adrian Smart

Pictures of Abishek Dwidvedi

Picture of Aman Gas


Facebook profile pictures of Raushelle Goodin-Guzman

Picture of Archie (LNU) also known as 'Prince Adeb'

THE BASES for this First Motion in Limine are as follows:

1. The evidence is not relevant or of material value in this trial under I.R.E. 401 and 402;
2. The probative value, if any, is outweighed by its prejudicial value;
3. The witnesses should not be allowed to testify because they have are not fact witnesses, nor have they been designated as expert witnesses in accordance with I.C.R. 16, and without further offer of proof their testimony has no relevance to this matter; and
4. The witnesses identified have no contact information provided as set forth in I.C.R. 16 and the State is has not apparent means by which to contact these individuals; and
5. The evidentiary value if any for this evidence would present a needless presentation of cumulative evidence, a confusion of the issues and misleading to the jury as set forth in I.R.E. 403.

DATED this 16TH day of May, 2014.



Janiece Price
Deputy Prosecutor

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 MAY 16 PM 2:13

BY KH
DEPUTY CLERK

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
Telephone (208) 236-7280

JANIECE PRICE, ISB #7161
Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN FARAH GAS,

Defendant.

CASE NO. CR-13-864-FE

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN, TO Court and Defendant that the State of Idaho will call up for hearing, its **FIRST** MOTION IN LIMINE, on MONDAY, MAY 19, 2014, at the hour of 9:30 a.m., before the Honorable Stephen Dunn, Sixth District Judge, Courtroom No. 301 at the Bannock County Courthouse in Pocatello, Idaho.

DATED This 16th day of May, 2014

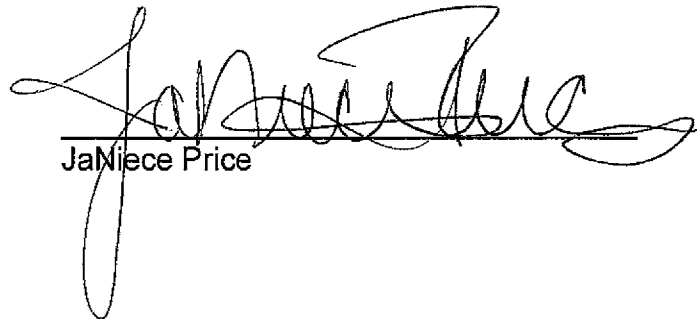

JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 16th day of May, 2014, a true and correct copy of the foregoing STATE'S FIRST MOTION IN LIMINE was delivered to the following:

KENT REYNOLDS
PUBLIC DEFENDERS OFFICE
BANNOCK COUNTY COURTHOUSE
POCATELLO, ID 83205

☐ mail -
postage prepaid
☐ hand delivery
☐ facsimile
☒ Courthouse Mailbox



Janiece Price

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
Telephone (208) 236-7280

JANIECE PRICE, ISB #7161
Deputy Prosecuting Attorney

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 MAY 16 PM 2:33

BY KH
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN FARAH GAS,

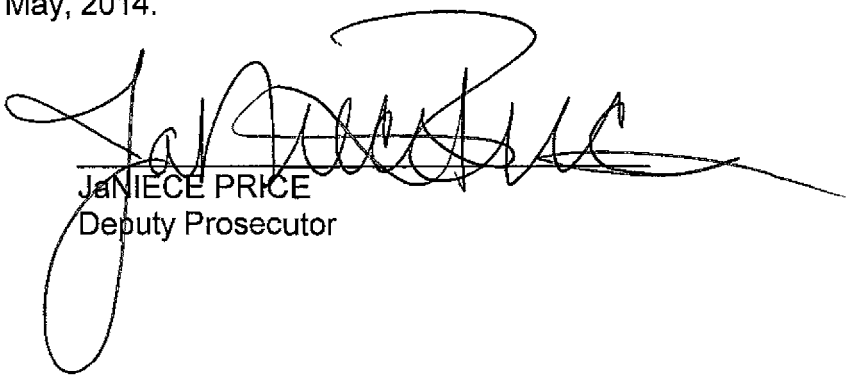
Defendant.

CASE NO. CR-13-864-FE

STATE'S SECOND MOTION
IN LIMINE

COMES NOW the State of Idaho, by and through JaNIECE PRICE, Deputy Prosecuting Attorney, in and for the County of Bannock, State of Idaho, and moves the Court for an Order denying the Defendant by and through counsel to put on testimony or evidence of the Victim's past sexual behavior and history on the basis that the information to be proposed by the Defendant is not a pertinent nor allowed pursuant to Idaho Rule Of Evidence 412(a) and (b).

DATED this 16TH day of May, 2014.


JANIECE PRICE
Deputy Prosecutor

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
Telephone (208) 236-7280

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 16 PM 2:33
BY KLL
DEPUTY CLERK

JANIECE PRICE, ISB #7161
Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN FARAH GAS,

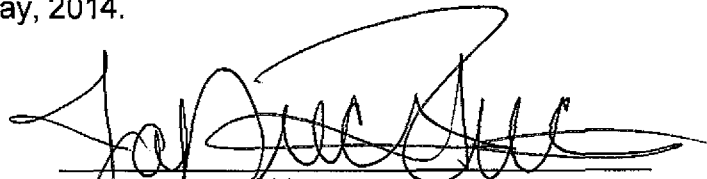
Defendant.

CASE NO. CR-13-864-FE

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN, TO Court and Defendant that the State of Idaho will call up for hearing, its **SECOND MOTION IN LIMINE**, on MONDAY, MAY 19th, 2013, at the hour of 9:30 a.m., before the Honorable STEPHEN DUNN, Sixth District Judge, Courtroom No. 301 at the Bannock County Courthouse in Pocatello, Idaho.

DATED This 16th day of May, 2014.

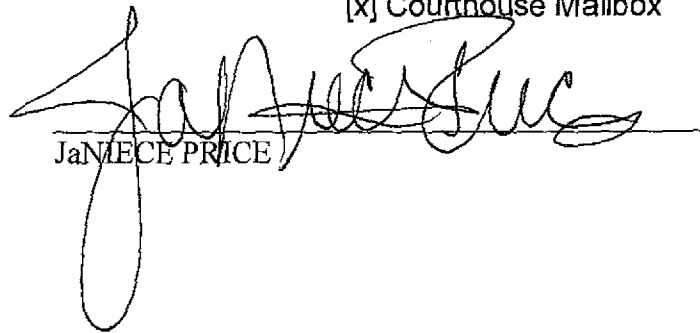

JANIECE PRICE
Deputy Prosecutor

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 16TH day of May, 2014, a true and correct copy of the foregoing STATE'S SECOND MOTION IN LIMINE was delivered to the following:

KENT VON REYNOLDS
PUBLIC DEFENDERS OFFICE
BANNOCK COUNTY COURTHOUSE
POCATELLO, ID 83205

☐ mail -
postage prepaid
☐ hand delivery
☒ facsimile
☒ Courthouse Mailbox


JANIECE PRICE

RANDALL D. SCHULTHIES
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 16 PM 4:10
BY KU
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO)

Plaintiff)

v.)

AMAN GAS,)

Defendant.)

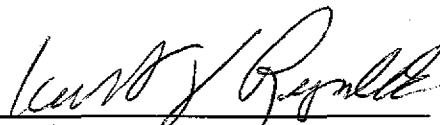
Case No. CR-2013-00864-FE-A

NOTICE OF HEARING

Monday, May 19, 2014
at 09:30 a.m.

PLEASE TAKE NOTICE that the undersigned will bring a MOTION TO
DISQUALIFY before the Honorable Stephen S. Dunn, on Monday, May 19, 2014, at
09:30 a.m.

DATED this 16 day of May, 2014.

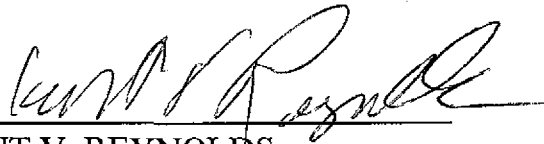

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 14 day of May, 2014, I served a true and correct copy of the **NOTICE OF HEARING** was served upon the parties below as follows:

Bannock County Prosecutors
Prosecutor's in-box, room 220
Bannock County Courthouse
Pocatello, ID 83205

☒ Hand Deliver



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 16 PM 4:11
BY KIL
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

vs.

AMAN GAS,

Defendant.

CASE NO. CR-2013-864-FE

**DEFENDANT'S SECOND
EXHIBIT LIST**

Comes now the Defendant, Aman Gas, by and through his attorney, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and hereby disclose the following exhibits which may be introduced and admitted at trial: in addition to the exhibits listed in Defendant's First Exhibit List, Defendant may introduce the following items as exhibits at trial

Picture of Aman Gas - still being acquired

January 2013 calendar

Facebook Profile pictures of Raushelle Guzman

Defendant reserves the right to supplement this list prior to trial.

Defendant's Second Exhibit List
Page - 1

Dated this 16 day of May, 2014.



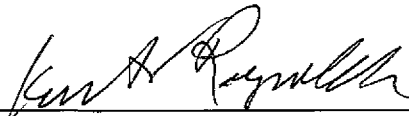
KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16 day of May, 2014, I served a true and correct copy of the **DEFENDANT'S SECOND EXHIBIT LIST** was served upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 16 PM 4:11
BY KHJ
DEPUTY CLERK

Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,)	CASE NO. CR-2013-864-FE-A
)	
Plaintiff	)	DEFENDANT'S OBJECTION TO
v.	)	STATES' PROPOSED EXHIBITS
	)	AND COURT'S PROPOSED POST-
AMAN GAS,	)	PROOF JURY INSTRUCTIONS
)	
Defendant.)	
_____)	

COMES NOW the Defendant, Aman Gas, acting by and through his attorney of record,
Kent V. Reynolds, Assistant Chief Deputy Public Defender of the Bannock County Public
Defender's Office, and hereby objects the following proposed jury instructions as follow:

State's Requested Jury Instructions Nos. 16, 17, 18, 19, 20, 22, 23.

Court Proposed Post Proof Jury Instructions Nos. 13, 14, 15, 16, 17, 18, 24 and Verdict.

Defendant objects on the grounds that there is no support in the law or in fact for the
submission of the jury instructions; that the additional jury instructions are highly inflammatory

**DEFENDANT'S OBJECTION TO STATES' PROPOSED EXHIBITS AND COURT'S PROPOSED POST-
PROOF JURY INSTRUCTIONS**
Page 1


and prejudicial towards the Defendant; that it unfairly allows the State to obtain a potential conviction by allowing the jury to consider other crimes as an alternative to the crime alleged; and the instructions violate the Defendant's due process rights protected by the 5th, 14th amendments to the United States Constitution and Article 1§13 of the Idaho Constitution in that the additional crime proof jury instructions would deny the Defendant right to a fair trial under the law and unfairly prejudice the Defendant.

With respect to the Court's proposed Jury Instruction No. 13, the elements listed are not supported by the charging language set forth in the Prosecuting Attorney's Information.

Defendant reserves the right to object to any other proposed jury instructions.

Oral argument is requested.

DATED this 16 day of May, 2014.



KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16 day of May, 2014, I served a true and correct copy of the **DEFENDANT'S OBJECTION TO STATES' PROPOSED EXHIBITS AND COURT'S PROPOSED POST-PROOF JURY INSTRUCTIONS** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile



KENT V. REYNOLDS
Deputy Public Defender

DEFENDANT'S OBJECTION TO STATES' PROPOSED EXHIBITS AND COURT'S PROPOSED POST-PROOF JURY INSTRUCTIONS

Page 3

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 16 PM 4:12
BY KH
DEPUTY CLERK

Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

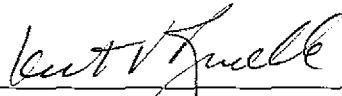
STATE OF IDAHO,)	CASE NO. CR-2013-864-FE-A
)	
Plaintiff	)	DEFENDANT'S SECOND SET OF
v.	)	REQUESTED
	)	JURY INSTRUCTIONS
AMAN GAS,)	
)	
Defendant.)	
_____)	

COMES NOW the Defendant, Aman Gas, acting by and through his attorney of record,
Kent V. Reynolds, Assistant Chief Deputy Public Defender of the Bannock County Public
Defender's Office, and hereby requests and submits the following Defendant's Second Set of
Requested Jury Instructions as follows:

Submitted Jury Instruction No. 6.

Defendant's Second Set of Requested Jury Instructions
Page 1

DATED this 16 day of May, 2014.



KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16 day of May, 2014, I served a true and correct copy of the **DEFENDANT'S SECOND SET OF REQUESTED JURY INSTRUCTIONS** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Deputy Public Defender

REQUESTED JURY INSTRUCTION NO. _____

The defendant in this case will introduce evidence tending to show that the defendant was not present at the time and place of the commission of the alleged offense for which the defendant is here on trial. This is what is known as an alibi.

ICJI 1502 Modified

Comment

The committee recommends that no alibi instruction be given. The purpose of alibi evidence is to create a reasonable doubt as to whether it was the defendant who committed the crime charged. *State v. Sheehan*, 33 Idaho 553, 196 P. 532 (1921). The jury instructions typically given inform the jury that their verdict must be not guilty unless the state proves every material allegation of the offense beyond a reasonable doubt, including the allegation that the defendant committed the offense charged. These instructions adequately cover the same issue that is addressed by an alibi instruction. *State v. Ward*, 31 Idaho 419, 173 P. 497 (1918); *State v. Webb*, 6 Idaho 428, 55 P. 892 (1899); *State v. Nelson*, 112 Idaho 245, 731 P.2d 788 (Ct. App. 1987); *State v. Kay*, 108 Idaho 661, 710 P.2d 281 (Ct. App. 1985); and *State v. Elisondo*, 103 Idaho 69, 644 P.2d 992 (Ct. App. 1982). The jury does not need an alibi instruction in order to understand the significance of evidence showing that the defendant was not at the scene of the crime when it was committed. If the trial court decides to give an alibi instruction, however, the committee recommends that this instruction, based on *State v. Holm*, 93 Idaho 904, 478 P.2d 284 (1970), be given.

GIVEN _____
REFUSED _____
MODIFIED _____
COVERED _____
OTHER _____

REQUESTED JURY INSTRUCTION NO. _____

The defendant in this case will introduce evidence tending to show that the defendant was not present at the time and place of the commission of the alleged offense for which the defendant is here on trial. This is what is known as an alibi.

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 16 PM 4:12
BY KID
DEPUTY CLERK

Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff

v.

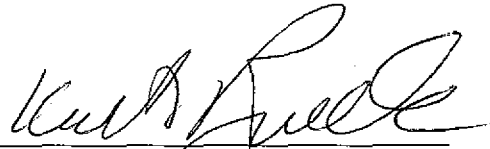
AMAN GAS,

Defendant.

)
) **CASE NO. CR-2013-864-FE-A**
)
) **DEFENDANT'S NOTICE OF**
) **WITHDRAWAL OF REQUESTED**
) **JURY INSTRUCTIONS**
)
)
)
)
)
)

COMES NOW the Defendant, Aman Gas, acting by and through his attorney of record,
Kent V. Reynolds, Assistant Chief Deputy Public Defender of the Bannock County Public
Defender's Office, and hereby gives notice of its withdrawal of requested jury instructions No. 1
and No. 2.

DATED this 16 day of May, 2014.



KENT V. REYNOLDS
Deputy Public Defender


Defendant's Notice of Withdrawal of Requested Jury Instructions
Page 1

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 16 day of May, 2014, I served a true and correct copy of the **DEFENDANT'S NOTICE OF WITHDRAWAL OF REQUESTED JURY INSTRUCTIONS** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-864-FE-A
Plaintiff,)	
	)	AMENDED TWELFTH RESPONSE
v.	)	TO DISCOVERY REQUEST
)	
AMAN GAS,)	
)	
Defendant.)	
_____)	

TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County
Courthouse, Pocatello, Idaho 83205

COMES NOW the Defendant, Aman Gas, by and through his attorney, and responds to
the States Request for Discovery as follows:


4. Leah Gardner, 1130 Meadowbrook Lane, Pocatello, Idaho
- Andrea Ogolla, 358 N. 13 th, Pocatello, Idaho
- Adrian Smart, 358 N. 13 th, Pocatello, Idaho
- Monique Hamblin, 358 N. 13 th, Pocatello, Idaho
- Abdullah Alshehab, alshabdu@isu.edu, 487 Arabian, Pocatello, Idaho

Amended Twelfth Response to Discovery Request
Page 1

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 16 PM 4:11
BY KLL
DEPUTY CLERK

Defendant reserves the right to supplement this response prior to trial.

Dated this 16 day of May 2014.



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16 day of May 2014, I served a true and correct copy of the **AMENDED TWELFTH RESPONSE TO REQUEST FOR DISCOVERY** was served upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

DONNA HALL
1730 W. QUINN RD. #313
POCATELLO, IDAHO 83202
(208) 851-2532

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 19 AM 11:12
BY KH
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

v.

AMAN F. GAS,

Defendant.

CASE NO. CR-2013-0864-FE-A

AFFIDAVIT OF
SERVICE OF SUBPOENA
UPON ABDULAH ALSHEHAB

State of Idaho)
: ss
County of Bannock)

I, **DONNA HALL**, swear under oath:

I am a resident of Idaho, over the age of eighteen (18) years, and not a party to the above-entitled action.

On the 15th day of May, 2014, at 4:20 p.m., I arrived at the Bannock County Courthouse where **ABDULAH ALSHEHAB**, was known to be required to appear before Judge Clark.

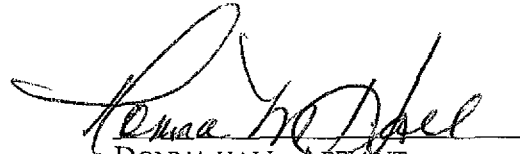
I personally served upon **ABDULAH ALSHEHAB** a *SUBPOENA* commanding her appearance before the **Honorable Stephen S. Dunn**, Bannock County Courthouse, 624 East Center, Pocatello, Idaho, **room 301** for the consecutive period of **May 20th through May 23rd, 2014**, as witness for the above captioned case.

IDAHO V. GAS
PROOF OF SERVICE-Abdulah Alshehab
Page | 1

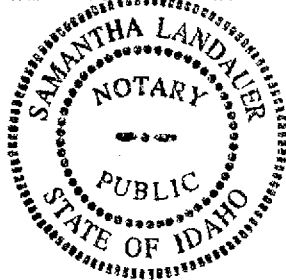
Service was accomplished by personally handing the *SUBPOENA* to **ABDULAH
ALSHEHAB.**


I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated this 15th day of May, 2014


DONNA HALL, AFFIANT

Subscribed and sworn to before me on this 15th day of May, 2014.





SAMANTHA LANDAUER
NOTARY PUBLIC FOR THE STATE OF IDAHO
MY COMMISSION EXPIRES: 04/24/20

DONNA HALL
1730 W. QUINN RD. #313
POCATELLO, IDAHO 83202
(208) 851-2532

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 MAY 19 AM 11:12

BY KH
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

v.

AMAN F. GAS,

Defendant.

CASE NO. CR-2013-0864-FE-A

AFFIDAVIT OF
SERVICE OF SUBPOENA
UPON MONIQUE HAMBLIN

State of Idaho)
: ss
County of Bannock)

I, **DONNA HALL**, swear under oath:

I am a resident of Idaho, over the age of eighteen (18) years, and not a party to the above-entitled action.

On the 14th day of May, 2014, at 7:30p.m., I arrived at the work place of **MONIQUE HAMBLIN**, known as 1222 Freeman Lane, Pocatello, Idaho 83201.

I personally served upon **MONIQUE HAMBLIN** a *SUBPOENA* commanding her appearance before the **Honorable Stephen S. Dunn**, Bannock County Courthouse, 624 East Center, Pocatello, Idaho, **room 301** for the consecutive period of **May 19th through May 23rd, 2014**, as witness for the above captioned case.

IDAHO V. GAS
PROOF OF SERVICE-Monique Hamblin
Page | 1

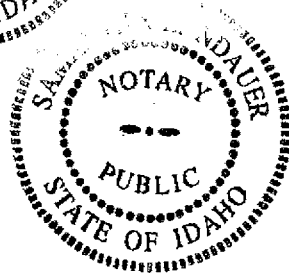
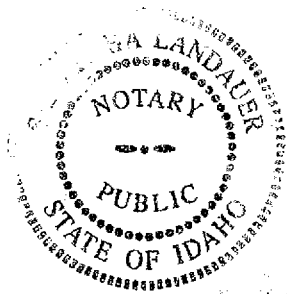
Service was accomplished by personally handing the *SUBPOENA* to **MONIQUE HAMBLIN**.

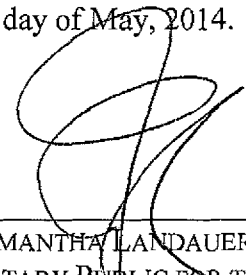
I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

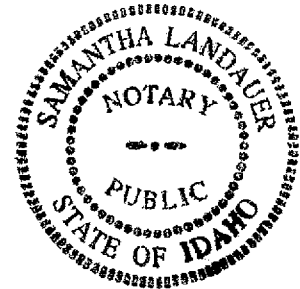
Dated this 14th day of May, 2014


DONNA HALL, AFFIANT

Subscribed and sworn to before me on this 14th day of May, 2014.




SAMANTHA LANDAUER
NOTARY PUBLIC FOR THE STATE OF IDAHO
MY COMMISSION EXPIRES: 04/24/20



Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 20 PM 2:47
BY KH
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,)	CASE NO. CR-2013-864-FE-A
)	
Plaintiff	)	MOTION TO MOVE TRIAL
v.)	
)	
AMAN GAS,)	
)	
Defendant.)	
_____)	

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V. Reynolds, Deputy Public Defender, and hereby moves this Court for its order to have trial in Judge Nye's Courtroom on the grounds and for the reasons that there is inadequate space to conduct the trial in Judge Naftz's courtroom. The tables do not provide sufficient space for counsel, the Defendant and Defense Counsel's assistant or other counsel to sit at Defense Counsel table. The tables only allow the Defendant and his attorney at the table provided. The jury can easily be moved by simple instructions to appear in Judge Nye's jury room. Moving from one jury room will not have any impact on the jury. The impact on the

Motion to Move Trial
Page 1

jury is negligible while the impact to the Defendant is significant. To restrict the Defendant and defense team to an inadequate courtroom will seriously impact the defense to which Aman Gas is entitled. Communications between the Aman Gas and his attorney and other assisting staff will be seriously impaired

The in-custody defendants who appear for the Thursday pretrial can be, with only a little additional inconvenience, moved to Judge Naftz's courtroom. The potential security risk of moving in-custody defendants from Judge Naftz's courtroom to Judge Dunn's courtroom is negligible, if any. Moving these defendant's through the hallways is no different than what happens on a day-to-day basis when in-custody defendants are moved through the halls of the courthouse to other courtrooms such as Judge Clark's and Judge Thomsen's as there is still the risk of contact of the Defendant's with the general public. This potential risk does not seem to preclude moving the in-custody defendant's through the hallways.


In addition, due to the close proximity of the jury to defense table, there is a high risk that confidential communications between the Aman Gas and his defense team may be overheard by jury members.

To require the Defenant and Defense counsel to appear in Judge Naftz's courtroom will significantly harm and impede the ability to provide the defense to which the Defendant is entitled and would violate the Defendant's rights to a fair trial. Not only must the procedure be fair but the location and the attending physical facilities and circumstances must also be conducive to facilitate Aman Gas' right to a trial by his peers and his rights to due process.

It would also facilitate the State as well. The tables are too small to facilitate the attorneys for both sides to adequately present their cases.

Oral argument is requested.

DATED this 20 day of May, 2014.

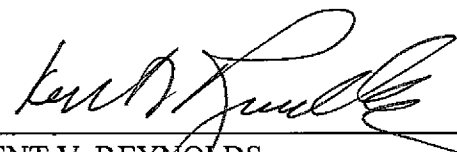

KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

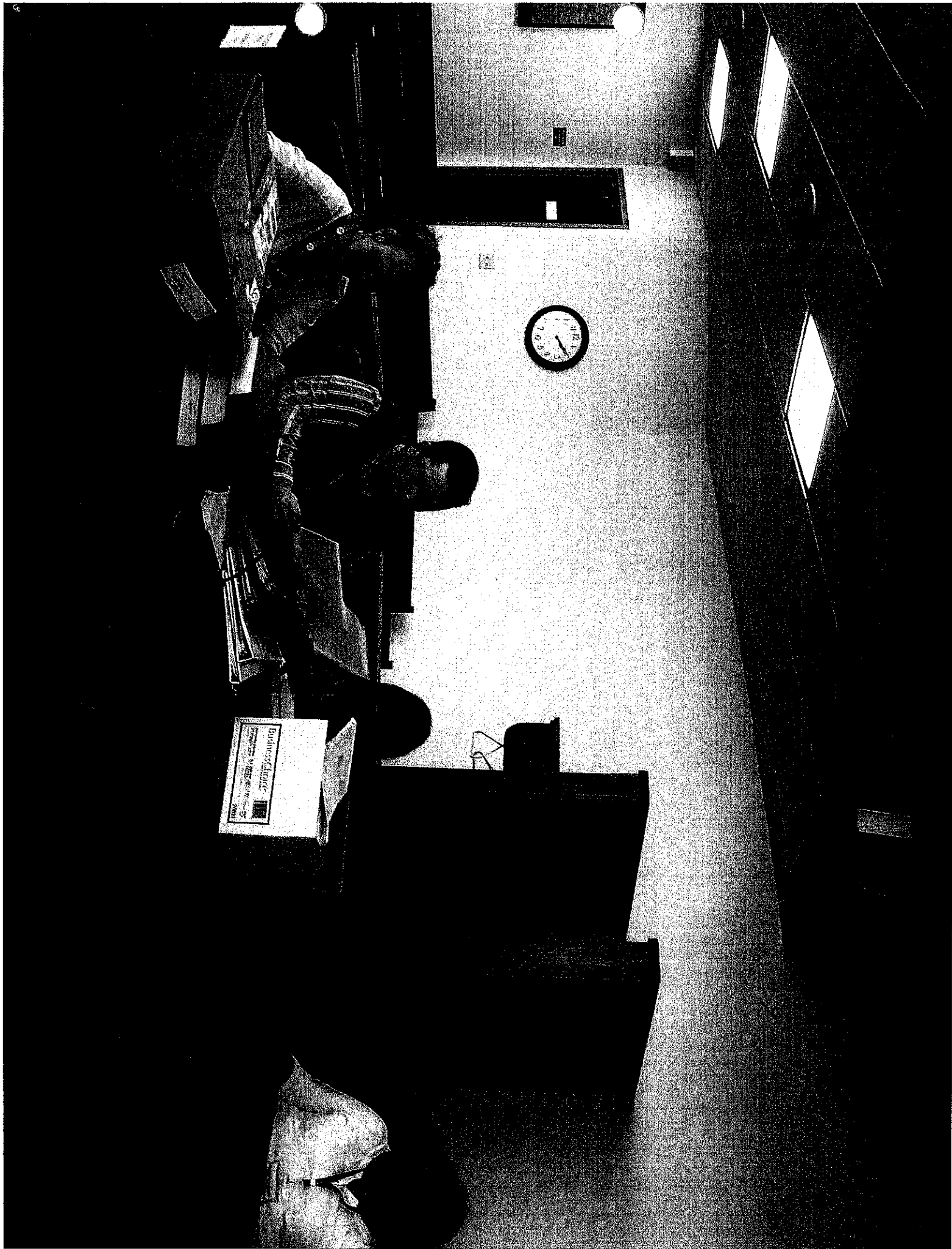
CERTIFICATE OF SERVICE

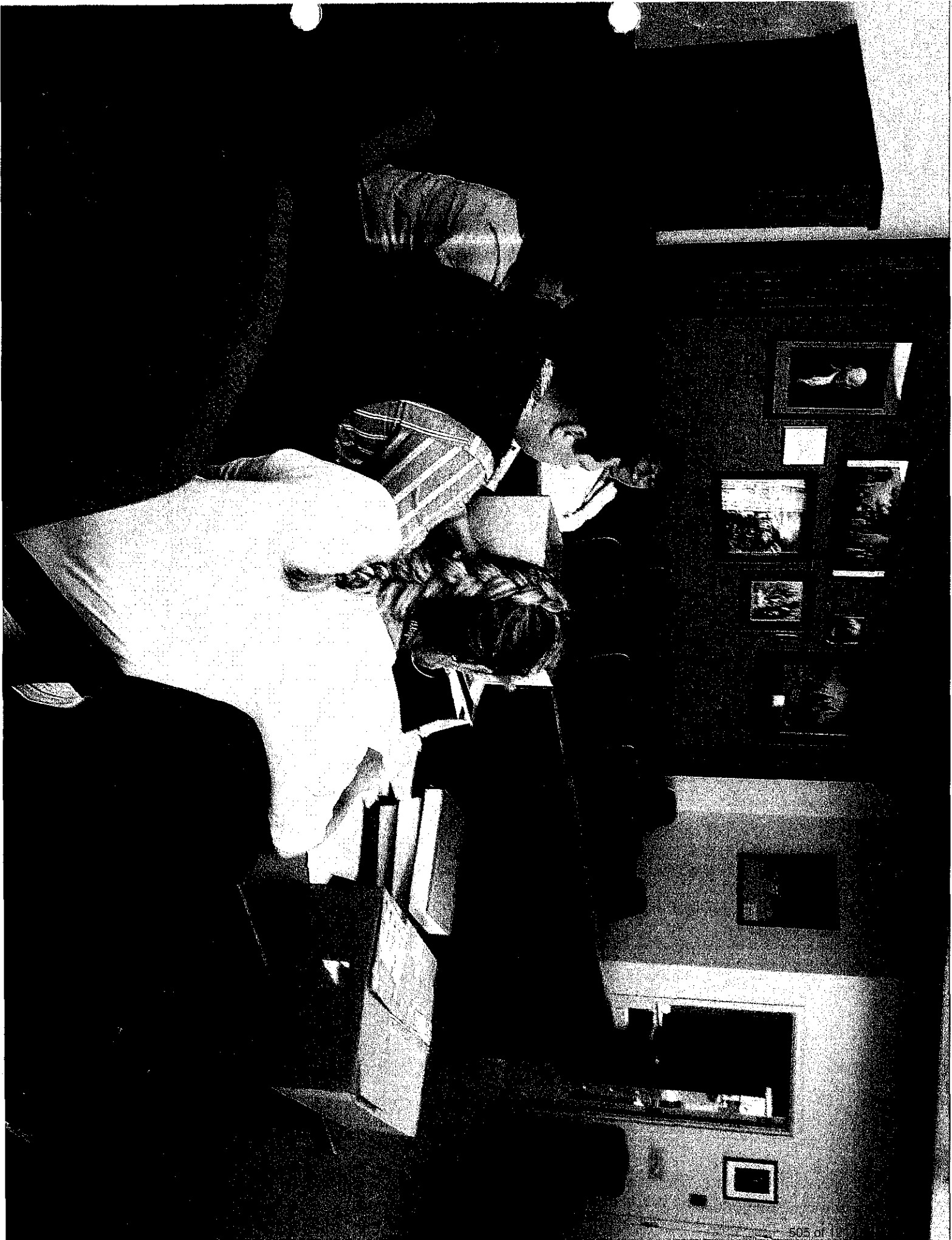
I HEREBY CERTIFY that on the 20 day of May, 2014, I served a true and correct copy of the **MOTION TO MOVE TRIAL** upon the party below as follows:

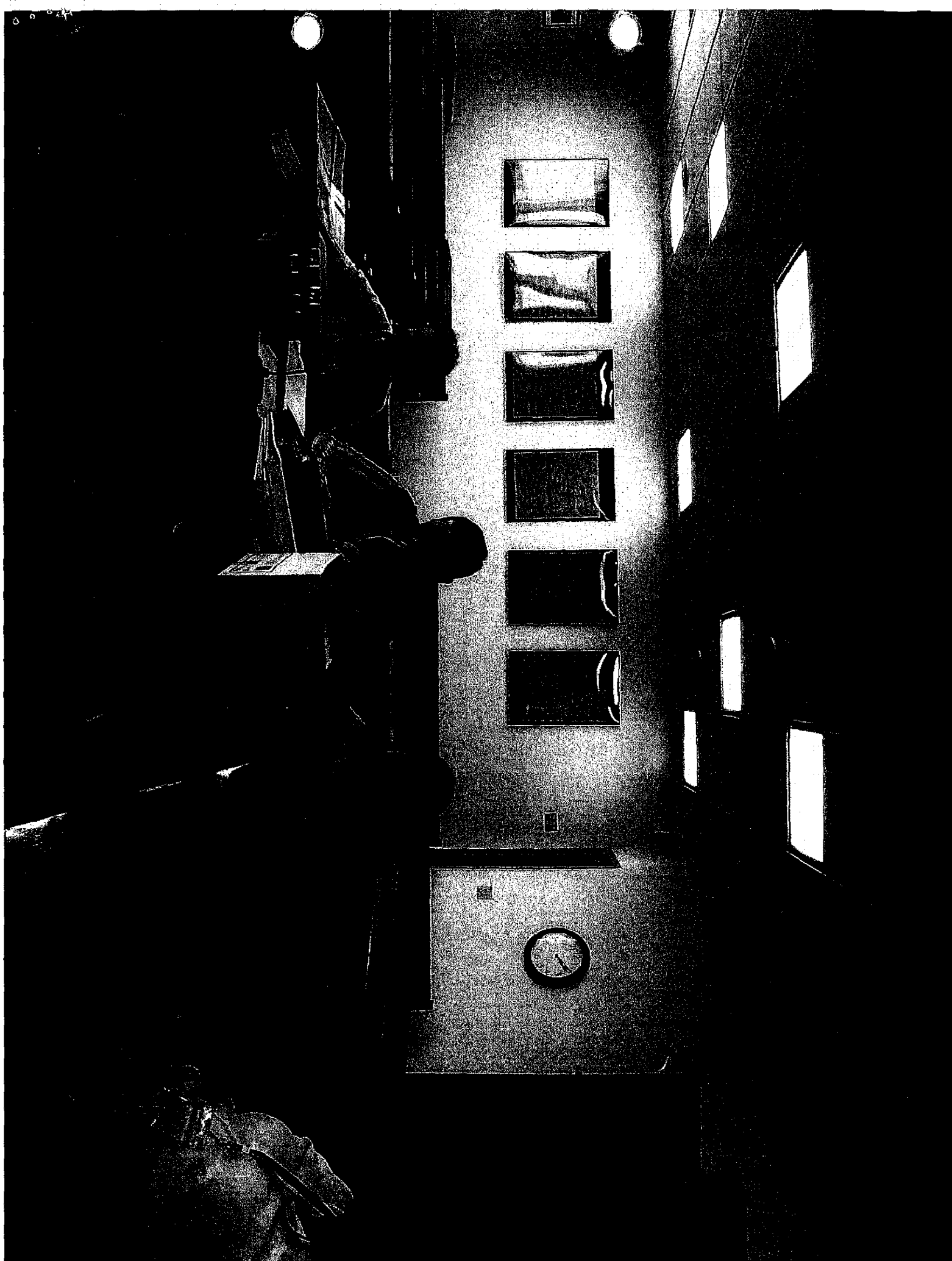
Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile


KENT V. REYNOLDS
Deputy Public Defender







ORIGINAL

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 22 PM 9:37
BY KH
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register#CR-2013-864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN FARAH GAS,

Defendant.

JURY INSTRUCTIONS

INSTRUCTION NO. 10

You have now heard all the evidence in the case. My duty is to instruct you as to the law.

You must follow all the rules as I explain them to you. You may not follow some and ignore others. Even if you disagree or don't understand the reasons for some of the rules, you are bound to follow them. If anyone states a rule of law different from any I tell you, it is my instruction that you must follow.

INSTRUCTION NO. 11

As members of the jury it is your duty to decide what the facts are and to apply those facts to the law that I have given you. You are to decide the facts from all the evidence presented in the case.

The evidence you are to consider consists of:

1. Sworn testimony of witnesses;
2. Exhibits which have been admitted into evidence; and
3. Any facts to which the parties have stipulated.

Certain things you have heard or seen are not evidence, including:

1. Arguments and statements by lawyers. The lawyers are not witnesses. What they say in their opening statements, closing arguments and at other times is included to help you interpret the evidence, but is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, follow your memory;
2. Testimony that has been excluded or stricken, or which you have been instructed to disregard;
3. Anything you may have seen or heard when the court was not in session.

INSTRUCTION NO. 12

In every crime or public offense there must exist a union or joint operation of act and intent.

INSTRUCTION NO. 13

A defendant in a criminal trial has a constitutional right not to be compelled to testify. The decision whether to testify is left to the defendant, acting with the advice and assistance of the defendant's lawyer. You must not draw any inference of guilt from the fact that the defendant does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

INSTRUCTION NO. 14

Certain evidence was admitted for a limited purpose. At the time this evidence was admitted you were admonished that it could not be considered by you for any purpose other than the limited purpose for which it was admitted. Do not consider such evidence for any purpose except the limited purpose for which it was admitted.

INSTRUCTION NO. 15

In order for the defendant to be guilty of the crime of rape, the State must prove each of the following:

1. On or about the 20th day of January, 2013,
2. in the state of Idaho,
3. the defendant, Aman Farah Gas, caused his penis to penetrate the anal opening, however slightly, of Raushelle M. Goodin Guzman, a female person, and
4. she was unconscious of the nature of the act. "Unconscious of the nature of the act" means incapable of resisting because of one of the following conditions:

- (1) she was unconscious or asleep; or
- (2) she was not aware, knowing, perceiving, or cognizant that the act occurred.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

INSTRUCTION NO. 16

If your unanimous verdict is that the defendant is not guilty of rape, you must acquit him of that charge. In that event, you must next consider the included offense of battery with intent to commit rape.

In order for the defendant to be guilty of battery with intent to commit rape, the state must prove each of the following:

1. On or about the 20th day of January, 2013,
2. in the state of Idaho
3. the defendant, Aman Farah Gas, committed a battery upon Raushelle M.

Goodin Guzman, a female, and

4. when committing such battery the defendant had the intent to use such force as was necessary to cause his penis to penetrate, however slightly, her anal opening, without her consent.

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

INSTRUCTION NO. 17

A "battery" is committed when a person:

- (1) willfully and unlawfully uses force or violence upon the person of another; or
- (2) actually, intentionally and unlawfully touches or strikes another person against the will of the other; or
- (3) unlawfully and intentionally causes bodily harm to an individual.

INSTRUCTION NO. 18

You have been instructed as to all the rules of law that may be necessary for you to reach a verdict. Whether some of the instructions will apply will depend upon your determination of the facts. You will disregard any instruction which applies to a state of facts which you determine does not exist. You must not conclude from the fact that an instruction has been given that the Court is expressing any opinion as to the facts.

INSTRUCTION NO. 19

I have outlined for you the rules of law applicable to this case and have told you of some of the matters which you may consider in weighing the evidence to determine the facts. In a few minutes counsel will present their closing remarks to you, and then you will retire to the jury room for your deliberations.

The arguments and statements of the attorneys are not evidence. If you remember the facts differently from the way the attorneys have stated them, you should base your decision on what you remember.

The attitude and conduct of jurors at the beginning of your deliberations are important. It is rarely productive at the outset for you to make an emphatic expression of your opinion on the case or to state how you intend to vote. When you do that at the beginning, your sense of pride may be aroused, and you may hesitate to change your position even if shown that it is wrong. Remember that you are not partisans or advocates, but are judges. For you, as for me, there can be no triumph except in the ascertainment and declaration of the truth.

As jurors you have a duty to consult with one another and to deliberate before making your individual decisions. You may fully and fairly discuss among yourselves all of the evidence you have seen and heard in this courtroom about this case, together with the law that relates to this case as contained in these instructions.

During your deliberations, you each have a right to re-examine your own views and change your opinion. You should only do so if you are convinced by fair and honest discussion that your original opinion was incorrect based upon the evidence the jury saw and heard during the trial and the law as given you in these instructions.

Consult with one another. Consider each other's views, and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment. Each of

you must decide this case for yourself; but you should do so only after a discussion and consideration of the case with your fellow jurors.

However, none of you should surrender your honest opinion as to the weight or effect of evidence or as to the innocence or guilt of the defendant because the majority of the jury feels otherwise or for the purpose of returning a unanimous verdict.

INSTRUCTION NO. 20

The original instructions and the exhibits will be with you in the jury room. They are part of the official court record. For this reason please do not alter them or mark on them in any way. You each have a copy of the jury instructions and you may mark on your copy if you wish.

The instructions are numbered for convenience in referring to specific instructions. There may or may not be a gap in the numbering of the instructions. If there is, you should not concern yourselves about such gap.

There is no official transcript of the trial proceedings that you can refer to. You must rely on your memory and your notes of the testimony. No portion of the testimony will be available to review, so do not expect that.

INSTRUCTION NO. 21

Upon retiring to the jury room, select one of you as a presiding officer, who will preside over your deliberations. It is that person's duty to see that discussion is orderly; that the issues submitted for your decision are fully and fairly discussed; and that every juror has a chance to express himself or herself upon each question.

In this case, your verdict must be unanimous. When you all arrive at a verdict, the presiding officer will sign it and you will return it into open court.

Your verdict in this case cannot be arrived at by chance, by lot, or by compromise.

If, after considering all of the instructions in their entirety, and after having fully discussed the evidence before you, the jury determines that it is necessary to communicate with me, you may send a note by the Marshall. You are not to reveal to me or anyone else how the jury stands until you have reached a verdict or unless you are instructed by me to do so.

A verdict form suitable to any conclusion you may reach will be submitted to you with these instructions.

INSTRUCTION NO. 22

In this case you will return a verdict, consisting of a series of questions. Although the explanations on the verdict form are self-explanatory, they are part of my instructions to you. I will now read the verdict form to you. It states:

“We, the Jury, for our verdict, unanimously answer the question(s) submitted to us as follows:

“Question No. 1. As to the crime of rape, we, the Jury, unanimously find the defendant Aman Farah Gas:

_____ Not Guilty

_____ Guilty”

If you unanimously answered Question No. 1 "Guilty", then you should simply sign the verdict form and advise the Marshall that you are done.

If you unanimously answered Question No. 1 "Not Guilty", then proceed to answer Question No. 2, which states:

“Question No. 2. As to the crime of battery with intent to commit rape, we, the Jury, unanimously find the defendant Aman Farah Gas:

_____ Not Guilty

_____ Guilty”

If it was necessary to answer Question No. 2, once you have answered Question No. 2, sign the verdict form and advise the Marshall that you are done.

The verdict form has a place for it to be dated and signed. You should sign the verdict form as explained in another instruction.

IN THE DISTRICT COURT FOR THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register # CR-2013-863-FE

State of Idaho,

Plaintiff,

-vs-

Aman Farah Gas

Defendant.

VERDICT

We, the Jury, for our verdict, unanimously answer the question(s) submitted to us as follows:

Question No. 1. As to the crime of rape, we, the Jury, unanimously find the defendant Aman Farah Gas:

_____ Not Guilty

_____ Guilty

If you unanimously answered Question No. 1 "Not Guilty", then proceed to answer Question No. 2:

Question No. 2. As to the crime of battery with intent to commit rape, we, the Jury, unanimously find the defendant Aman Farah Gas:

_____ Not Guilty

_____ Guilty

Dated this _____ day of May, 2014.

Signed: _____

Presiding Officer

INSTRUCTION NO. 23

You have now completed your duties as jurors in this case and are discharged with the sincere thanks of this Court. The question may arise as to whether you may discuss this case with the attorneys or with anyone else. For your guidance, the Court instructs you that whether you talk to the attorneys, or to anyone else, is entirely your own decision. It is proper for you to discuss this case, if you wish to, but you are not required to do so, and you may choose not to discuss the case with anyone at all. If you choose to, you may tell them as much or as little as you like, but you should be careful to respect the privacy and feelings of your fellow jurors. Remember that they understood their deliberations to be confidential. Therefore, you should limit your comments to your own perceptions and feelings. If anyone persists in discussing the case over your objection, or becomes critical of your service, either before or after any discussion has begun, please report it to me.

Bannock County Jury Seating Chart – Courtroom 301

71.	72.	73.	74.	75.	76.	77.	78.	79.	80.				
57.	58. Eugene Hodges P	59. Stephanie Jablonski EXCUSED VOIR DIRE	60. Julie Fox	61. Neomi Soto	62. Maxine Skroh	63. Roxanne Jackson	64. Vannessa Santos	65. Melody England	66.	67.	68.	69.	FILED BANNOCK COUNTY CLERK OF THE COURT 2014 MAY 23 PM 12:07
43. Korbi Cain	44. Debbie Morgan	45. Carmen Loveland	46. Danielle Christensen	47. Matthew Beatty	48. Michelle Bennett EXCUSED VOIR DIRE	49. Daniel Lete	50. Cynthia Broome EXCUSED VOIR DIRE	51. Jessica McPeek	52. Rainee Stoos	53.	54. Paula Crabtree	55. Chayd Criddle	56. Melisa Chacon EXCUSED VOIR DIRE
29. Jason Reed Peramp	30. Elyse Harper	31. Dan Hargraves P	32. Cheryl Anderson P	33. Jonas Neeser P	34. Thomas Ottaway	35. Robert Frasure	36. Frank Donahey P	37. Jeremy Dahlstrom	38. Kristen Matthews	39. Rachel Williamsen	40. Daniel Hawkins	41. Stewart McFarland	42. Catherine Melragon
15. Olivia Hoffman	16. Mitchell Murphy P	17. Derek Manley P	18. Jennifer Picard EXCUSED VOIR DIRE	19. Cassie Bowman EXCUSED VOIR DIRE	20. Scott Webster P	21. Ashlie Covert	22. David Dinger P	23. Peter Farina P	24. Anna Gordon P	25. Daysha Rupp P	26. Meghan Johnson NO SHOW	27. Alta Trogden EXCUSED VOIR DIRE	28. Amber Beni
1. Douglas Smith P	2. Peter Tonhazy P	3. Cynthia Amen	4. Tresa Daniels P	5. Caryn Evilla	6. Savanna Stewart P	7. Ryan Pope P	8. Jackie Zohner	9. Chelsey Loftus P	10. Bailey Neuhaus P	11. Kiana Spillman P	12. Heather Fellows EXCUSED VOIR DIRE	13. Danielle Adams	14. Jill Peters P

CASE NO. CB-2013-0006A-FE PEREMPTORY CHALLENGES

DATE 5-19-14

Plaintiff

Defendant

1. Douglas Smith #1
2. Jason Reed #29
3. Peter Farina #13
4. David Dinger #22
5. Dan Hargraves #31
6. Jonas Neeser #33
7. Mitchell Murphy #16
8. Derek Manly #17
9. Frank Donohue #36
10. ~~Q~~ Tresa Daniels #4
11. Daysha Rupp #25

1. Cheryl Anderson #2
2. EUGENE HODGES #58
3. PETER TONHAZY #2
4. SCOTT WEBSTER #20
5. SAVANNA STEWART #6
6. BAILEY NEUHANS #10
7. KIANA SPILLMAN #11
8. HELSEY LOFTUS #9
9. ~~AMBER J. BENNETT~~ #14
10. RYAN POPE #7
11. ANN GORDON #24

FILED
BAYBROOK COUNTY
CLERK OF THE COURT
2014 MAY 23 PM 12:07
BY DEPUTY CLERK

FILED
 BANNOCK COUNTY
 CLERK OF THE COURT
 2014 MAY 23 PM 12:07

BY DEPUTY CLERK

SEATING ARRANGEMENT OF JURORS — CRIMINAL CASE 10 PEREMPTORIES ON EACH SIDE

1 Lynn Elliott	2 Diane Belcher	3 Dianne Coombs	4 Shirley White	5 Dorothy Lundberg	6 Helen Hoskins
7 Teresa Henderson	8 Dorothy Henderson	9 Helen Henderson	10 William Henderson	11 Daniel Henderson	12 Stewart Henderson
					13 Melanie Henderson

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 23 PM 1:07

COURT MINUTES

CR-2013-0000864-FE

State of Idaho vs. Aman F Gas

BY
DEPUTY CLERK

Hearing type: Jury Trial

Hearing date: 5/19/2014

Time: 1:39 pm

Judge: Stephen S Dunn

Courtroom: Room #301, Third Floor

Court reporter: Sheri Nothelphim

Minutes Clerk: Karla Holm

Tape Number:

Defense Attorney: Kent Reynolds

Prosecutor: JaNiece Price

139	Begin; roll call
143	No challenges to panel;
144	Panel sworn; introductions
147	Information read and instructions
151	Court voir dire; Heather Fellows, Jennifer Picard, Cassie Bowman, Alta Trogden, Michelle Bennett, Cynthia Broome, Melisa Chacon, and Stephanie Jablonski, excused
333	Court continue voir dire;
340	State conduct voir dire
410	State pass panel for cause; Reynolds voir dire
417	Def pass panel for cause;

419 Peremptory challenges; Douglas Smith, Jason Reed, Jonas Neeser, Eugene
Hodges, Peter Farina, Peter Tonhazy, Scott Webster, David Dinger, Savanna
Stewart, Dan Hargraves, Cheryl Anderson, Bailey Neuhaus, Mitchell Murphy,
Kiana Spillman, Frank Donahey, Jill Peters, Tresa Daniels, Ryan Pope, Tresa
Daniels, Ryan Pope, Anne Gordon, Daysha Rupp

500 Jurors called; Caryn Evilla, Jackie Zohner, Danielle Adams, Ashlie Covert, Amber
Bennett, Thomas Ottaway, Robert Frasure, Jeremy Dahlstrom, Kristen Matthews,
Rachel Willamsen, Daniel Hawkins, Stewart McFarland, Catherine Melragon;

501 Remaining panel excused; counsel accept jurors;

503 Jury sworn; Court

505 Pre-proof instructions; waiver of reporting of jury instructions;

520 Jurors excused;

521 Reynolds objection regarding State excusing males;

523 State comments;

524 Court; overruled objection;

525 Court begin 8:45 Tuesday;

528

535 Court discussion with spectator who may have spoken with jurors; Samuel
Gibson

536 Deputy Garcia comments;

537 State no comment; Reynolds comments

538 Court allow subject to attend trial with admonishment;

539 recess

COURT MINUTES

CR-2013-0000864-FE

State of Idaho vs. Aman F Gas

Hearing type: Jury Trial

Hearing date: 5/20/2014

Time: 9:05 am

Judge: Stephen S Dunn

Courtroom: Room #301, Third Floor

Court reporter: Sheri Nothelphim

Minutes Clerk: Karla Holm

Tape Number:

Defense Attorney: Kent Reynolds

Prosecutor: JaNiece Price

FILED
DANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 23 PM 1:07

BY _____
DEPUTY CLERK

905 Begin; parties waive roll call of jury; State opening statement

920 Reynolds opening statement

935 State witness Raushelle Goodin Guzman was called sworn and testified;

951 State Exhibit 1, Guzman Facebook message, offered and admitted

956 State Exhibit 3, Facebook messages between victim and her father, offered and admitted

1008 Reynolds cross examination; Defense Exhibit A, January 2013 calendar, offered and admitted

1016 Vict handed Def Exhibit K1; offered;

1017 State objection to Exhibit;

1018 Objection overruled; Exhibit admitted

1019 State objection to relevance; jury excused; admonish

1020 Reynolds argument and offer of proof

1023 Court objection sustained; Exhibit K1 not admitted; Reynolds argument regarding previous testimony

1024 State argument

1025 Court ruling; objection to testimony sustained

1027 Recess

1042 Reconvene; counsel waive roll call; Reynolds continue cross examination

1051 Exhibit N1 handed to victim

1051 Offered; State objection and argument; overruled; admitted;

1052 N2 and N3 handed to victim; offered; objection;

1053 Further foundation; objection sustained; not admitted

1054 N5 handed to victim; offered; objection; sustained; not admitted

1059 N17 and N21 handed to victim;

1106 Reynolds request preliminary hearing transcript published;

1108 State objection; sustained; transcript not published at this time

1125 Exhibit M, map of apartment, handed to witness;

1126 Exhibit M withdrawn;

1128 Def given blank paper to draw layout of apartment, marked II

1131 Offered; admitted;

1134 Transcript of preliminary hearing page 29 handed to wit

1205 Def Exhibit J1, handed to Def; offered; State objection

1206 Exhibit J1, denied

1208 Lunch recess; reconvene 1:15; admonish;

1209 Outside presence of jury; Reynolds argument regarding Exhibit J1

1212 State objection; Court sustain objection
1213 Recess
128 Reconvene; parties waive roll call
130 Resume cross examination
132 State re-direct examination
141 Witness excused; State's witness Richard Sammons called sworn and testified;
152 Reynolds cross examination
157 State objection to recording; sustained
158 Jury excused
204 Jury returned; roll call waived
213 Witness excused; State's witness Pocatello Police Corporal William Preston Brown was called sworn and testified
219 Reynolds objection; Court overruled
228 Reynolds cross examination
229 Def Exhibit G, dispatch log, handed to witness
230 Offered and admitted;
235 State re-direct examination
236 Witness excused; recess; admonish; 15 mins
259 Reconvene; parties waive roll call; State motion to exclude witnesses;
300 State witness Pocatello Police Officer Justin Buck called sworn and testified;
313 Reynolds cross examination
314 Def Exhibit H, dispatch call log, handed to witness
315 Offered; State objection; questions in aid of objection;
316 Reynolds continue questioning
317 Court Exhibit H not admitted

344 State re-direct examination
345 Witness excused;
346 State witness Pocatello Police Corporal Matthew Shutes called sworn and testified
352 Reynolds cross examination
407 Witness excused; State's witness Pocatello Police Ofcr Tarl Lambson was called sworn and testified
415 Reynolds cross-examination
425 Witness excused; recess; admonish
442 Reconvene; parties waive roll call; State witness Ann Wilcox called sworn and testified
445 Reynolds Motion; jury excused;
446 Court reprimand Def Counsel; Reynolds Motion to Exclude Witness from testifying regarding her training and experience; argument
449 State argument
450 Court; Reynolds
452 Court Motion denied; jury returned; parties waive roll call of jury;
454 Examination of witness continued
510 State's Exhibit 5 and 6, photographs of rectum, marked
511 Offered; Def objected; overruled; admitted
514 State's Exhibit 7, victim's medical records,
516 Offered; Def objection; argument; overruled; admitted
517 Reynolds questions in aid of objection
518 Reynolds renew objection;
519 Reynolds withdraw objection;
530 State's Exhibits 14, 15 and 16, marked

533 Offered; Reynolds objection; Court overruled; admitted
534 Reynolds cross examination
603 State re-direct examination
608 Witness excused;
609 Jury Recess; admonish; reconvene Wednesday 8:30 am
611 Reynolds regarding Exhibits 14 15 and 16
612 State argument
613 Court; ruling ; overruled;
615 Def Motion to Move Trial; Reynolds argument;
620 State objection to Def Motion;
622 Court; Reynolds further argument;
623 Court request Court Marshall Garcia opinion; Garcia
624 Court taken under advisement;
625 Line up for Wednesday.
630 recess

COURT MINUTES

CR-2013-0000864-FE

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 23 PM 1:07

State of Idaho vs. Aman F Gas BY

DEPUTY CLERK

Hearing type: Jury Trial

Hearing date: 5/21/2014

Time: 8:35 am

Judge: Stephen S Dunn

Courtroom: Room #301, Third Floor

Court reporter: Sheri Nothelphim

Minutes Clerk: Karla Holm

Tape Number:

Defense Attorney: Kent Reynolds

Prosecutor: JaNiece Price; Jeff Cronin

835 Begin; outside presence of jury; Cronin possible objection with State witnesses;
836 Reynolds argument; objection to State witness Turner
848 Cronin
851 Reynolds
854 Court take under advisement and issue ruling before testimony of witnesses; as
to witness Sterner same ruling as witness Wilcox;
857 Court will be moving to Judge Nye's courtroom for Thursday's hearing
859 Jury returned; waive roll call of jury;
901 State witness Pocatello Police Det Tracy Marshall called sworn and testified
926 Reynolds cross examination
958 Def Exhibit T, drawing made by Def; handed to witness;

1016 Recess; admonish

1035 Reconvene; waive roll call; cross examination continued

1046 State re-direct examination

1049 Reynolds re-cross examination

1050 Witness excused; State witness Gina Sterner called sworn and testified

1105 Reynolds cross examination

1106 Witness excused;

1107 Recess; admonish

1117 Reconvene without jury; Court's ruling as to State's final 2 witnesses; Court allow witnesses to testify

1123 Reynolds additional argument

1124 Reynolds motion for mistrial; argument;

1124 State argument;

1125 Reynolds

1126 Court; ruling stands; Motion for Mistrial denied;

1126 Jury returned;

1127 Lunch recess; return 12:30; admonish;

1248 Reconvene; roll call waived; State witness Jamie Femreite

1251 State motion for witness to be known as expert;

1253 Reynolds objection; question witness in aid of objection

1256 Reynolds motion; jury excused; Reynolds argument

1259 State

100 Court allow testimony; objection overruled;

102 Reynolds motion for witness's CV; granted for preserving record in case of appeal

104 Jury returned; roll call waived

105 State motion to consider witness as expert; Reynolds objection; State argument; objection overruled

106 State's Exhibit 10, Forensic Biology Report of witness, handed to witness

109 Offered; Reynolds objection; questions in aid of objection;

112 Court sustain objection; Exhibit 10 will not be admitted;

130 Reynolds cross examination

226 Jury excused; admonish

227 Reynolds question in aid of objection

229 Motion to exclude testimony; argument

230 State argument

230 Recess

247 Reconvene; roll call waived

248 Cross examination continued

259 State re-direct examination

302 Reynolds re-cross examination

302 Witness excused; State's witness Rylene L Nowlin, ISP Forensic Scientist, called sworn and testified

307 State request to qualify witness as expert; Reynolds objection; Court overrule objection;

312 State request to qualify witness as expert in DNA; objection; overruled;

320 Jury excused; Reynolds questions witness in aid of objection;

322 Reynolds Objection to failure to disclosure qualifications of witness; State argument

323 Reynolds; offer her CV as part of record; State no objection; admitted; Court overrule objection to testimony; her CV marked as Defendant's Exhibit KK and admitted to preserve the record for appeal purposes only

324 Jury returned; waive roll call; State direct examination continued
326 State Exhibit 11, forensic report prepared by witness; handed to witness
334 Reynolds cross examination
405 State re-direct examination
409 Witness excused; recess; admonish
434 Reconvene without jury; Reynolds renew motion to disqualify court for cause
and request mistrial;
435 State objection; Court deny motions
436 Reynolds motion to strike testimony of ISP forensic scientists, Femreite and
Nowlin;
438 State objection; Court deny motion
441 Reynolds Motion for Judgment of Acquittal;
442 Cronin objection
443 Court deny Motion;
444 Reynolds regarding proposed jury instructions;
445 Court;
447 Reynolds; Court
451 Jury returned; roll call waived;
452 State rests; Defendant's witness Adrian Smart called sworn and testified
515 Def Exhibit O1, photo of black male, handed to witness; returned to Reynolds
517 O2 handed to witness, facebook photos, offered;
518 State objection; State question in aid of objection;
520 Court objection sustained; Exhibit denied
526 State cross examination
528 Reynolds re-direct

529

Witness excused; recess for night; reconvene 8:30 a.m. move into Nye courtroom;

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 23 PM 1:07

COURT MINUTES

CR-2013-0000864-FE

State of Idaho vs. Aman F Gas

BY _____
DEPUTY CLERK

Hearing type: Jury Trial

Hearing date: 5/22/2014

Time: 8:38 am

Judge: Stephen S Dunn

Courtroom: 300

Court reporter: Sheri Nothelphim

Minutes Clerk: Brandy Peck

Defense Attorney: Kent Reynolds

Prosecutor: JaNiece Price

838	Court begins, outside the presence of the jury
840	Argument from defense counsel on motion to strike, then motion withdrawn. Motion to exclude DNA evidence
844	PA Cronin argument
846	Court denies motion to exclude DNA evidence; new exhibit LL admitted by stipulation
854	Jury in and roll call waived
856	C/S/T Andrea Ogolla, direct exam DA, exhibit N2 and N3 admitted by stipulation after questioning
905	Exhibit M given to witness, offered and objected to, court admits for illustrative purposes only. Exhibit published to the jury
915	N5 now admitted without objection
919	N7 N8 N10 N16 N17 N18 N21 N25 N26 N27 N28

N8 not admitted, rest admitted N26 illustrative

927 admitted for illustrative only N8 over objections

945 exhibit S admitted without objection

1006 brief recess requested by DA for witness to refresh recollection with a transcript or recording of police interview, jury excused and admonished, brief discussion with court and counsel

1010 recess

1032 reconvene roll call waived, State withdraw objection to witness being allowed to withdraw her objection, direct exam continues with witness using transcript to refresh her recollection

1043 cross examination PA Cronin, State's exhibit 9, 1st page only (redactions need to happen before going to jury)

1058 re direct examination

1100 witness excused; Called Gina Sterner, reminded of oath, direct exam DA

1105 jury excused briefly and admonished, witness listens to audio

1115 jury returns, roll call waived, direct exam continues, no cross exam, witness excused

1122 witness excused, C/S/T Abdul Alshabdu, direct exam DA, no cross exam witness excused

1125 C/S/T Taigen Bolton, direct exam DA, exhibit N19 was offered objected to and not admitted , witness excused no cross exam

1130 Officer Shutes, reminded of oath, direct exam by DA

1134 witness excused without cross

1135 Officer Lambson reminded of oath, direct exam by DA, then excused*, no cross

1139 Officer Buck reminded of oath, direct exam by DA, then excused*, no cross

1145 Officer Marshall reminded of oath, direct exam by DA, excused no cross

1152 Officer Brown reminded of oath, direct exam by DA,

1159 cross exam then excused

1200 recall Officer Buck

1203 cross exam, witness excused

1209 recall Officer Lambson, no cross

1211 C/S/T Abhishek Dwivedi direct exam

1215 cross exam

1218 defense rests, no rebuttal from State and jury out

1220 court and counsel discuss jury instruction issues and what schedule should be like from here

1240 Recess until 2pm for counsel and 230 for jury

214 reconvene outside presence of the jury

215 State objections to Court's proposed instructions; Court overrules

217 Defense objections to proposed instructions

219 Court rulings, defense objections overruled

222 Defendant motion for acquittal

223 State comments

228 Motion for acquittal denied

228 State motion regarding certain testimony being brought up in closings

229 Defense response

231 court grants and denies in part

241 jury back, roll call waived; court reads final instructions to the jury

252 State closing arguments

316 Defense closing arguments

401 rebuttal closing from State

410 Danielle Adams #3 was drawn as alter

412 bailiff sworn and case to jury

415 Defense motion to withdraw certain jury instructions and the verdict form
416 State response
416 Court denies motion
417 recess
853 reconvene, question from the jury
853 State comments
854 Defense comments
900 Court as to response to be given
939 Court reconvened for verdict, roll call of jury waived
944 clerks reads verdict
947 sentencing date will be given tomorrow, defense counsel notifies court of motion
being filed and appeal

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 MAY 23 PM 1:06

BY KJ
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register #CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN F. GAS,

Defendant.

MINUTE ENTRY & ORDER

On May 19, 2014, the above entitled matter came on for trial by jury with JaNiece Price and Jeff Cronin, Bannock County Deputy Prosecuting Attorneys, representing the State of Idaho and the Defendant appearing in person and by and through counsel, Kent Reynolds.

Sheri Nothelphim performed as interpreter for this proceeding.

Prior to the beginning of the trial, juror Cynthia Amen was excused for cause.

Roll call of the jury panel was taken by the Clerk.

The parties each passed the jury panel for cause on statutory qualifications.

Case No. CR-2013-00864-FE

MINUTE ENTRY

Page 1

The Court introduced the court staff, Defendant and respective counsel.

The Clerk swore the proposed jurors on voir dire.

The Court conducted voir dire. During the Court's voir dire, jurors Heather Fellows, Jennifer Picard, Cassie Bowman, Alta Trogden, Michelle Bennett, Cynthia Broome, Melisa Chacon, and Stephanie Jablonski, were excused for cause.

The State conducted voir dire and passed the panel for cause.

Counsel for the Defendant conducted voir dire and passed the panel for cause.

The following named persons were excused by the peremptory challenges: Douglas Smith, Jason Reed, Jonas Neeser, Eugene Hodges, Peter Tonhazy, Peter Farina, Scott Webster, David Dinger, Dan Hargraves, Savanna Stewart, Cheryl Anderson, Bailey Neuhaus, Mitchell Murphy, Kiana Spillman, Derek Manley, Chelsey Loftus, Frank Donahey, Jill Peters, Tresa Daniels, Ryan Pope, Anne Gordon, Daysha Rupp.

The following named persons were sworn, examined, passed upon and thereafter sworn to try the case: Caryn Evilla, Jackie Zohner, Danielle Adams, Ashlie Covert, Amber Bennett, Thomas Ottaway, Robert Frasure, Jeremy Dahlstrom, Kristen Matthews, Rachel Williamsen, Daniel Hawkins, Stewart McFarland, and Catherine Melragon.

The Prosecuting Attorney's Information and pre-evidence instructions were read to the jury.

The jury was excused at 5:25 p.m. The jury was admonished and instructed to reconvene at 9 a.m. on Tuesday, May 20, 2014.

Outside the presence of the jury, counsel for the Defendant objected to the peremptory challenges of the State and provided argument. The Court heard argument from the State. The Court overruled the objection of the Defendant.

Court Marshall Deputy Herman Garcia advised the Court of a spectator, who had been in the courtroom during voir dire, that had made comments regarding the case to the potential jurors. The subject was brought into the courtroom and questioned by the Court. The subject was admonished by the Court.

The Court recessed at 5:39 p.m.

TUESDAY, MAY 20, 2014

The Court reconvened at 9:05 a.m. Counsel waived roll call of the jury.

JaNiece Price, Bannock County Deputy Prosecuting Attorney, presented opening statement.

Kent Reynolds, Bannock County Public Defender, presented his opening statement.

State's witness, Raushelle Goodin Guzman, was called, sworn and testified.

State's Exhibit 1, victim's facebook message, State's Exhibit 2, facebook messages between victim and her father, were offered and admitted into evidence.

Defendant's Exhibit A, January 2013 calendar, was admitted by stipulation.

Defendant's Exhibit K1, facebook messages posted by victim prior to incident, were offered and objected to by the State. The Court overruled the objection and Defendant's Exhibit K1 was admitted.

The jury was excused at 10:19 a.m. The jury was admonished.

Outside the presence of the jury, the State continued its objection to Defendant's Exhibit K1 and to the questioning on cross examination. The Court heard argument and an offer of proof from counsel for the Defendant. The Court sustained the State's objection. The Court advised that Defendant's Exhibit K1 would not be admitted into evidence. The Court also sustained the objection to the questioning on cross examination.

The Court recessed at 10:27 a.m.

The Court reconvened at 10:42 a.m. Counsel waived roll call of the jury.

Cross examination of the victim continued.

Defendant's Exhibit N1, photograph of house, was offered and admitted into evidence.

Defendant's Exhibit N2, photo of driveway and garage door, Defendant's Exhibit N3, photo of white door, Defendant's Exhibit N5, photo of stairs, were offered. The State objected to the admission and provided argument. The Court sustained the objection. Defendant's Exhibit N2, N3 and N5 are not admitted into evidence.

Defendant's Exhibit N17, N21 and N22 were handed to the witness. Counsel for the Defendant withdrew the Exhibits at this time.

Counsel moved to publish the transcript of the preliminary hearing. Cross examination continued. The State objected to the testimony. The Court sustained the objection and the transcript was not published at that time.

Defendant's Exhibit II, drawing by the victim of the layout of the room, offered and admitted into evidence.

Defendant's Exhibit J1, photo of Abhishek Dwivedi, was offered. The State objected to its admission. The Court sustained the objection. The Exhibit will not be admitted.

The jury was excused at 12:08 p.m. The jury was admonished and instructed to reconvene at 1:15 p.m.

Outside the presence of the jury, counsel for the Defendant argued for the admission of Defense Exhibit J1. The Court also heard argument from the State in objection to Exhibit J1. The Court sustained the objection. Defense Exhibit J1 will not be admitted into evidence.

The Court recessed for lunch at 12:13 p.m.

The Court reconvened at 1:28 p.m. Roll call of the jury was waived by counsel.

Testimony of witness resumed.

State's witness Richard Sammons was called, sworn and testified.

The jury was excused at 1:58 p.m. The jury was admonished.

Outside the presence of the jury, the witness was played a recording of conversation between the witness and a police officer.

The jury was returned to the courtroom at 2:04 p.m. Counsel waived roll call of the jury.

Cross examination of the witness continued.

State's witness Pocatello Police Corporal William Brown was called, sworn and testified.

Defendant's Exhibit G, dispatch call log, was offered and admitted into evidence.

The Court recessed at 2:36 p.m. The jury was admonished and instructed to return in 15 minutes.

The Court reconvened at 2:59 p.m. Roll call of the jury was waived by counsel.

State's witness Pocatello Police Officer Justin Buck was called, sworn and testified.

Defendant's Exhibit H, dispatch log, was offered. The State objected to the Exhibit. The Court sustained the objection. Defendant's Exhibit H was not admitted.

State's witnesses Pocatello Police Corporal Matthew Shutes and Pocatello Police Officer Tarl Lambson were called, sworn and testified.

The Court recessed at 4:25 p.m. The jury was admonished.

The Court reconvened at 4:42 p.m. Counsel waived roll call of the jury.

State's witness Ann Wilcox, RN, was called, sworn and testified.

State's Exhibit 5 and State's Exhibit 6, photographs of victim's rectum, offered. Counsel for the Defendant objected to the Exhibits. The objection was overruled and the Exhibits were admitted into evidence.

State's Exhibit 7, medical records of Raushelle Goodin Guzman, offered. Counsel for the Defendant objected to the Exhibit. The Court overruled the objection and the Exhibit was admitted.

State's Exhibit 14, 15 and 16, photographs of victim's rectum, offered. Defense counsel objected to the Exhibits. The Court overruled the Defendant's objection and the Exhibits were admitted.

The jury was excused at 6:09 p.m. The jury was admonished and instructed to reconvene at 8:30 a.m. on Wednesday, May 21, 2014.

Outside the presence of the jury, counsel for the Defendant objected to the admittance of State's Exhibits 14, 15 and 16. The State presented argument. The Court overruled the Defendant's objection for the reasons stated on the record in open court.

The Court heard argument regarding the Defendant's Motion to Move Trial from counsel for the Defendant. The State objected to the Motion and presented argument. The Court also heard comments from Court Marshall Deputy Herman Garcia.

The Court recessed at 6:30 p.m.

WEDNESDAY, MAY 21, 2014

The Court reconvened at 8:35 a.m. without the jury present.

Counsel for the Defendant objected to the testimony of possible State witnesses and provided argument. The State provided argument. The Court advised that the State's witness Sterner will be allowed to testify. The Court advised that it would issue its ruling regarding the expert witnesses prior to the testimony of those witnesses.

The jury was returned to the courtroom at 8:59 a.m. Counsel waived roll call of the jury.

State's witness Pocatello Police Detective Tracy Marshall was called, sworn and testified.

The Court recessed at 10:16 a.m. The jury was admonished.

The Court reconvened at 10:35 a.m. Counsel waived roll call of the jury.

Cross examination of the witness continued.

State's witness Gina Sterner, RN, was called, sworn and testified.

The Court recessed at 11:07 a.m. The jury was admonished.

The Court reconvened without the jury at 11:17 a.m.

Outside the presence of the jury, the Court issued its ruling regarding the State's expert witnesses. The Court advised that the State's witnesses would be allowed to testify.

The Court recessed for lunch at 11:27 a.m.

The Court reconvened at 12:48 p.m. Roll call was waived by the parties.

State's witness Jamie Femreite, ISP Forensic Scientist, was called, sworn and testified.

Counsel for the Defendant requested to make a motion outside the presence of the jury. The jury was excused at 12:56 p.m.

Outside the presence of the jury, counsel for the Defendant moved to strike the testimony of this witness and provided argument. The State objected to the Defendant's motion and provided argument. The Court denied the Motion and advised that the testimony would be allowed.

Counsel for the Defendant moved to have the witness's CV admitted for the purpose of preserving the record for appeal. The Court granted the motion. Jamie Femreite's CV is marked as Defendant's Exhibit JJ and admitted for that purpose.

The jury was returned to the courtroom at 1:04 p.m. Roll call of the jury was waived.

The State moved to deem this witness as an expert witness. Counsel for the Defendant objected to this motion and questioned the witness in aid of objection. The Court overruled the objection and granted the State's motion.

State's Exhibit 10, forensic biology report prepared by the witness, was offered. Counsel for the Defendant objected to the Exhibit. The Court sustained the objection. State's Exhibit 10 is not admitted.

The jury was excused at 2:26 p.m. The jury was admonished.

Counsel for the Defendant questioned the witness in aid of objection. Counsel for the Defendant objected to the testimony of the witness and requested that her testimony be excluded. The Court heard argument from the State. Counsel withdrew the objection to the witnesses testimony.

The Court recessed at 2:30 p.m.

The Court reconvened at 2:47 p.m. Counsel waived roll call of the jury. Cross examination of the witness continued.

State's witness Rylene L. Nowlin, ISP forensic scientist, was called, sworn and testified.

The State moved to qualify this witness as an expert witness. Counsel for the Defendant objected to the motion. The Court overruled the objection.

At 3:20 p.m. the jury was excused and admonished.

Outside the presence of the jury, counsel for the Defendant objected to the testimony of this witness and requested that her testimony be excluded. The Court heard argument from the State. The Court overruled counsel for the Defendant's objection.

The witness's CV was marked as Defendant's Exhibit KK and admitted into evidence for the purpose of preserving the testimony for appeal as requested by counsel for the Defendant.

The jury was excused at 4:09 a.m. and admonished.

The Court reconvened outside the presence of the jury at 4:34 p.m. Counsel for the Defendant renewed the motion to disqualify the court and for a mistrial. The State objected to the motions and provided argument. The Court denied the Motion to Disqualify and the Motion for a Mistrial.

Counsel for the Defendant also renewed its Motion to Exclude the testimony of State's witnesses Femreite and Nowlin and provided argument. The State objected to the Motion and provided argument. The Court denied the Motion for the reasons stated on the record in open court.

The State rests.

Counsel for the Defendant moved for a judgment of acquittal and provided argument. The State objected and provided argument. The Court denied the motion.

The jury was returned to the courtroom at 4:51 p.m. Roll call was waived of the jury.

The Defendant's witness Adrian Smart was called, sworn and testified.

Court recess for night at 5:32 p.m. Jury was admonished and instructed to reconvene Thursday, May 22, 2014 at 8:30 a.m.

THURSDAY, MAY 22, 2014

The Court reconvened at 8:38 a.m. without the jury present.

Counsel for the Defendant made a motion to strike and provided argument. The motion to strike was then withdrawn. Counsel then made a motion to strike the DNA evidence and provided argument. The State provided argument. Upon the Court's ruling, the Defense withdrew the motion. The parties then stipulated to the admittance of exhibit LL.

The jury was returned to the courtroom at 8:55 a.m. Counsel waived roll call of the jury.

Defense witness Andrea Ogolla was administered an oath and testified. The witness was handed Defendant's exhibits N2 and N3 and after questioning admitted by stipulation of the parties. The witness was given Defense exhibit M and exhibit was offered. After hearing objections, the Court admitted the exhibit for illustrative purposes only.

Defense exhibits N7, N10, N16, N17, N18, N21, N25, N27 and N28 were admitted into evidence by stipulation. N8 and N26 were admitted over objection for illustrative purposes only. Defense exhibit S was admitted by stipulation.

The Court took a recess to allow the witness to review audio recording of police questioning. The jury was excused and admonished.

Court reconvened at 10:30 a.m. and the witness resumed the witness stand. Jury roll call was waived. Direct examination continued with the Defendant being allowed to review the transcript of police questioning to refresh recollection if needed.

Cross examination of the witness was conducted and the witness was excused.

Defense then re-called Gina Sterner, RN who was reminded of her oath and testified. No cross examination was conducted and the witness was excused.

Abdul Alshabdu was called, sworn and testified. After brief direct examination, the witness was excused without cross examination.

Defense then call Taigen Bolton who was administered an oath and testified. Exhibit N19 was offered, objected to and not admitted by the Court. The witness was excused without cross examination.

Officer Shutes was recalled to the stand and reminded of his oath. After brief direct examination the witness was excused without cross examination. Officer Lambson was then recalled and reminded of his oath. After direct examination the witness was excused without cross examination. The same occurred with Officer Buck and Officer Brown. Officer Marshall was also recalled and briefly cross examined and then excused.

Defense counsel then called Abhishek Dwivedi who was administered an oath and testified. The witness was excused at 12:18 p.m and the Defense rested. The State had no rebuttal witnesses to call.

The jury was excused and admonished at 12:40 p.m. The Court and counsel discussed jury instructions and timing issues and recessed for lunch.

Court reconvened outside the presence of the jury at 2:15 p.m. for argument regarding the Court's proposed jury instructions. The Court heard argument from both sides and denied all objections to his proposed instructions. The Court then heard a renewed motion for judgment of acquittal from Defense counsel and denied the motion pursuant to reasoning set forth on the record. The State made a motion to exclude Defense counsel from referring to certain testimony during closing argument, and the Court heard argument from both sides. The Court both granted and denied the motion in part pursuant to reasoning set forth on the record.

The Court reconvened at 2:40 p.m. Roll call of the jury was waived by counsel.

Instructions to the jury were read by the Court.

State gave closing argument.

Counsel for the Defendant gave closing argument.

State gave rebuttal closing argument.

The Marshall, Herman Garcia, was sworn to oversee the jury and the matter was submitted to the jury for deliberation at 4:12 p.m.

At 9:25 p.m. the Marshall advised the Court that the jury had reached a verdict.

The jury was returned to the courtroom at 9:40 p.m. Counsel waived the roll call of the jury. The jury foreperson, Caryn Evilla, advised the Court that the jurors had reached a verdict. The Court examined the verdict and the following verdict was read by the Clerk;

Register # CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN FARAH GAS,

Defendant.

VERDICT

We, the Jury, for our verdict, unanimously answer the question(s) submitted to us as follows:

Question No. 1. As to the crime of Rape, we, the Jury, unanimously find the Defendant Aman Farah Gas:

 X NOT GUILTY

 GUILTY

If you unanimously answered Question No. 1 "Not Guilty", then proceed to answer
Question No. 2:

Question No. 2. As to the crime of Battery with Intent to Commit Rape, we, the Jury,
unanimously find the Defendant Aman Farah Gas:

 NOT GUILTY

 X GUILTY

Dated this 22nd day of May, 2014.

S/s Caryn Evilla
Presiding Juror (SEE ATTACHED VERDICT)

Counsel for the State waived the polling of the individual jurors.

Counsel for the Defendant requested a polling of the jury. Polling of the jury occurred.

The Court ordered that the verdict be made a part of the record.

The final jury instruction was read to the jury.

IT IS HEREBY ORDERED that a pre-sentence investigation report shall be made prior to
sentencing and this matter is hereby referred to the Idaho State Department of Corrections for such
report.

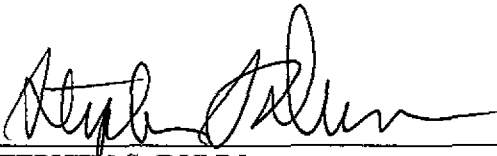
IT IS FURTHER ORDERED that the DUE DATE for said pre-sentence investigation report
shall be MONDAY, JULY 7, 2014 NO LATER THAN 5 P.M. WITH COPIES DELIVERED TO
THE COURT AND COUNSEL BY SAID DATE.

IT IS FURTHER ORDERED that the **SENTENCING** in this case is hereby set for **MONDAY, JULY 14, 2014 AT THE HOUR OF 9:30 A.M.** at the Bannock County Courthouse, Pocatello, Idaho before the undersigned judge.

IT IS FURTHER ORDERED that the Defendant is hereby **REMANDED** to the custody of the Bannock County Jail until further proceedings.

IT IS FURTHER ORDERED that the jurors in this matter are hereby **DISCHARGED**.

DATED May 23, 2014.



STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the _____ day of _____, 2014, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Division of Community Corrections

☐ U. S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Bannock County Jail

☐ U.S. Mail
☐ Email
☒ Hand Deliver
☐ Facsimile

DATED this _____ day of _____, 2014.

Deputy Clerk

IN THE DISTRICT COURT FOR THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 22 PM 9:37

BY KH
DEPUTY CLERK

Register # CR-2013-863-FE

State of Idaho,)

Plaintiff,)

-vs-)

Aman Farah Gas)

Defendant.)

VERDICT

ORIGINAL

We, the Jury, for our verdict, unanimously answer the question(s) submitted to us as follows:

Question No. 1. As to the crime of rape, we, the Jury, unanimously find the defendant

Aman Farah Gas:

X Not Guilty

_____ Guilty

If you unanimously answered Question No. 1 "Not Guilty", then proceed to answer

Question No. 2:

Question No. 2. As to the crime of battery with intent to commit rape, we, the Jury,
unanimously find the defendant Aman Farah Gas:

_____ Not Guilty

X Guilty

Dated this 22 day of May, 2014.

Signed: _____

Presiding Officer

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 30 PM 4:07
BY KV
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

)
) **CASE NO. CR-2013-864-FE-A**
)

) **MOTION FOR PREPARATION OF**
) **TRIAL TRANSCRIPT AND**
) **MOTION FOR TRIAL**
) **RECORDING**
)
)
)

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V.

Reynolds, Deputy Public Defender, and pursuant to or in conjunction with Rule 34, I.C. R., and hereby moves this Court for its order for the preparation of the trial transcript and for an audio recording of the trial as the items will assist counsel in preparing the Motion to Set Aside Verdict and Motion for New Trial and supporting affidavits, if any are submitted.

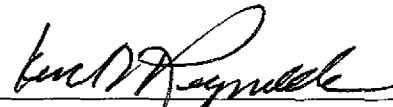
Defendant further moves that the cost of the preparation of the transcript and recording be paid for with District Court funds in the same manner as an appeal and as part of the appeal that will be filed.

Motion for Preparation of Trial Transcript and Motion for Trial Recording.
Page 1

In addition, preparation of eh transcript and recording will be required as part of the appeal to be filed in this matter.

Oral argument is requested

DATED this 30 day of May, 2014.



KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30 day of May, 2014, I served a true and correct copy of the **MOTION FOR PREPARATION OF TRIAL TRANSCRIPT AND MOTION FOR TRIAL RECORDING** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

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KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 30 PM 4:07
BY KH
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

)
) **CASE NO. CR-2013-864-FE-A**
)
) **MOTION TO SET ASIDE**
) **VERDICT AND MOTION FOR**
) **NEW TRIAL**
)
)
)
)
)

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V. Reynolds, Deputy Public Defender, and hereby moves this Court pursuant to Rule 34, I.C.R., for its order setting aside the verdict and ordering a new trial. Pursuant to Rule 34, I.C.R., the motion must be filed within fourteen (14) days after the verdict, finding of guilt or sentencing or other time frame as appointed by the court. Defendant files the motion on the grounds that it is in the interest of justice.


Defendant hereby gives notice that it reserves the right to amend the motion as investigation into the grounds for the new trial are still being investigated and to raise all issues

Motion to Set Aside Verdict and Motion for New Trial
Page 1

relevant to the request for new trial.

In addition, sentencing has not been completed and is not set until July 14, 2014 and Defendant has moved to have the sentencing hearing continued as set for in the motion filed in support thereof.

DATED this 30 day of May, 2014.



KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30 day of May, 2014, I served a true and correct copy of the **MOTION TO SET ASIDE VERDICT AND MOTION FOR NEW TRIAL** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

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KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAY 30 PM 4:07
BY KV
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

CASE NO. CR-2013-864-FE-A

**MOTION TO CONTINUE
SENTENCING**

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V.

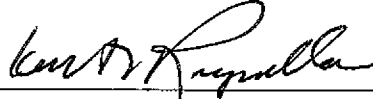
Reynolds, Deputy Public Defender, and hereby moves this Court for its order to continue the sentencing hearing now set for July 14, 2014, to later date on the grounds and for the reasons that Defense Counsel will be out of town the entire preceding week and will not have a full and adequate opportunity to prepare for sentencing and to prepare the Defendant for sentencing. Further, Defendant may call witnesses in support of sentencing.

As a psychosexual evaluation may be required, Defendant will reserve the right to request financial funding for an independent evaluator.

Motion to Continue Sentencing
Page 1

Defendant further requests that the PSI deadline not be extended.

DATED this 30 day of May, 2014.



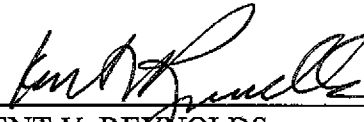
KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30 day of May, 2014, I served a true and correct copy of the **MOTION TO CONTINUE SENTENCING** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

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☐ Certified Mail
☐ Facsimile



KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 JUN 10 PM 4:29
BY KV
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

)
) CASE NO. CR-2013-864-FE-A
)
)

) NOTICE OF SCOPE OF CASE
) TRANSCRIPT PREPARATION
)
)
)
)
)

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V.

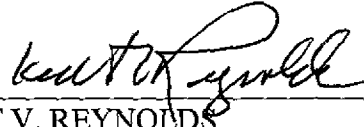
Reynolds, Assistant Chief Deputy Prosecuting Attorney, and advised the court of the following:

That prior to June 10, 2014, the court had made inquiry regarding the scope of the Motion for Preparation of Transcript and the parties agreement to entire into a stipulation regarding the same;

That on June 10, 2014, Ms. Price and Mr. Reynolds met and discussed the scope of the stipulation, and with Ms. Prices approval, represents that the stipulation covers the entire case including all motions, hearings, all trial proceedings including opening statements, voir dire, jury instructions, etc., and all other hearings and court proceedings.

Notice of Scope of Case Transcript Preparation
Page 1

DATED this 10 day of June, 2014.



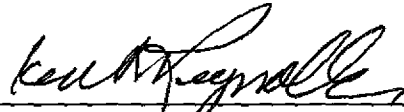
KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 10 day of June, 2014, I served a true and correct copy of the **NOTICE OF SCOPE OF CASE TRANSCRIPT PREPARATION** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 JUN 11

2014 JUN 11 PM 4:21

BY K11
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

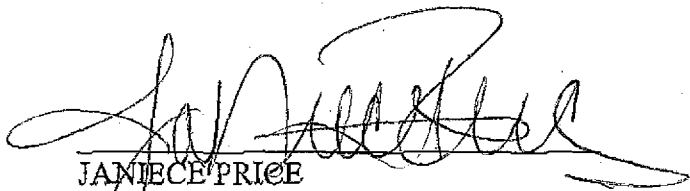
Defendant.

CASE NO. CR-2013-864-FE-A

STIPULATION OF THE PARTIES
RE: PREPARATION OF CASE
TRANSCRIPT

COMES NOW the State of Idaho, by and through its attorney, JaNiece Price, Deputy
Prosecuting Attorney, and the Defendant, Aman Gas, by and through his attorney, Kent V.
Reynolds, Deputy Public Defender, and hereby stipulate and agree to the preparation of the case
transcript in written and audio formats.

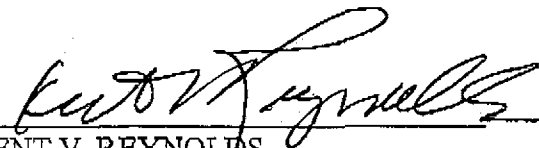
DATED this 10th day of June, 2014.


JANIECE PRICE

Deputy Prosecuting Attorney

Stipulation of the Parties Re: : Preparation of Case Transcript
Page 1

DATED this ____ day of June, 2014.


KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

Randall D. Schulthies
 Chief Public Defender
 P.O. Box 4147
 Pocatello, Idaho 83205-4147
 (208) 236-7040

FILED
 BANNOCK COUNTY
 CLERK OF THE COURT
 2014 JUN 12 PM 3:33
 BY KH
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Kent V. Reynolds
 Deputy Public Defender

Attorneys for Defendant

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.


CASE NO. CR-2013-864-FE-A

ORDER FOR PREPARATION OF
 CASE TRANSCRIPT

THIS MATTER having come before the Court pursuant to the Parties Stipulation to the preparation of the case transcript; good cause appearing;

IT IS HEREBY ORDERED THAT the transcript of the case shall be prepared in both written and audio formats.

DATED this 12th day of June, 2014.


 STEPHEN DUNN
 Sixth District Judge

cc: Office of the Prosecuting Attorney and Public Defender

Order for Preparation of Case Transcript
 Page 1

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 JUN 12 PM 4:07
BY KIL
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

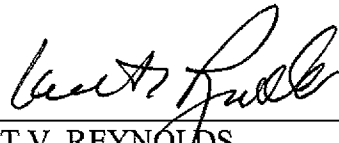
AMAN GAS,

Defendant.

)
) CASE NO. CR-2013-864-FE-A
)
) NOTICE OF SCOPE OF CASE
) TRANSCRIPT PREPARATION
)
)
)
)
)
)

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V. Reynolds, Aspirant Chief Deputy Prosecuting Attorney, and in response to the Court's inquiry regarding the scope the transcript preparation request; hereby gives notice of that Defendant requests preparation of the entire case transcript, hearings, motions, trial and including jury selection, jury instructions and opening and closing statements.

DATED this 10 day of June, 2014.



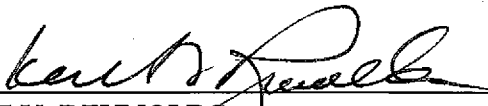
KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 10 day of June, 2014, I served a true and correct copy of the **NOTICE OF SCOPE OF CASE TRANSCRIPT PREPARATION** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

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KENT V. REYNOLDS
Deputy Public Defender

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 JUL -2 AM 11:26

BY 
DEPUTY CLERK

COURT MINUTES

CR-2013-0000864-FE

State of Idaho vs. Aman F Gas

Hearing type: Motion

Hearing date: 6/23/2014

Time: 9:41 am

Judge: Stephen S Dunn

Courtroom: Room #301, Third Floor

Court reporter: Sheri Nothelphim

Minutes Clerk: Karla Holm

Tape Number:

Defense Attorney: Kent Reynolds

Prosecutor: Ryan Godfrey

-
- 941 Motion to Continue Sentencing; Reynolds argument;
943 State objection
944 Court; grant Motion to Continue Sentencing;
949 Reynolds ; Court within 3 weeks after transcript submitted, Def to submit any
further briefings in support of additional motions; July 31, 2014; State reply
within 2 weeks thereafter; 8/14/14; hrg 08/18/14;
951 Reynolds

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 JUL -2 AM 11:26

BY Kil
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN F. GAS,

Defendant.

MINUTE ENTRY & ORDER

On June 23, 2014, the above named Defendant appeared in Court with his counsel, Kent V. Reynolds, for a hearing on Defendant's Motion to Continue Sentencing and Motion for New Trial. Ryan Godfrey, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheri Nothelphim performed as Court Reporter for this proceeding.

The Court heard argument from the parties regarding the Motions.

IT IS HEREBY ORDERED that the **SENTENCING** in this matter shall be **CONTINUED.**

IT IS FURTHER ORDERED counsel for the Defendant shall submit any additional briefing in regards of the Motion for New Trial no later than July 31, 2014. Counsel for the State shall have

Register CR-2013-00864-FE
MINUTE ENTRY & ORDER
Page 1

until August 14, 2014 to submit any reply briefs.

IT IS FURTHER ORDERED that the Defendant shall appear for **FURTHER PROCEEDINGS** on **MONDAY, AUGUST 18, 2014 AT THE HOUR OF 9:30 A.M.**

DATED July 1, 2014.



STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2 day of July, 2014, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

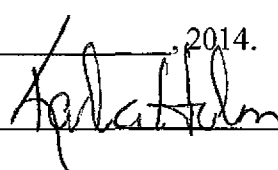
Bannock County Jail

☐ U.S. Mail
☐ Email
☒ Hand Deliver
☐ Facsimile

Division of Community Corrections

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

DATED this 2 day of July, 2014.


Deputy Clerk

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 JUL 25 PM 3:48
BY KV
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

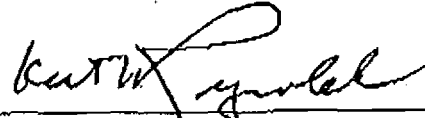
)
) **CASE NO. CR-2013-864-FE-A**
)

) **STIPULATION OF THE PARTIES**
) **TO EXTEND BRIEFING**
) **SCHEDULE**
)
)
)
)


COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V.

Reynolds, Deputy Public Defender, and the State of Idaho, by and through its attorney, JaNiece Price, Deputy Prosecuting Attorney, and hereby stipulate and agree that the briefing schedule be extended for an additional two weeks from the dates currently set.

DATED this 23 day of July, 2014.


KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

DATED this 24th day of July, 2014.


JANIECE PRICE
Deputy Prosecuting Attorney

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 JUL 29 PM 12:21

BY KH
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

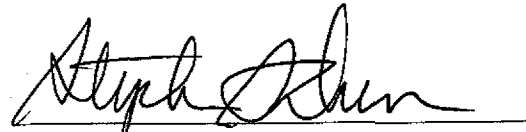
Defendant.

)
) CASE NO. CR-2013-864-FE-A
)
)
) ORDER EXTENDING BRIEFING
) SCHEDULE
)
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)

THIS MATTER having come before the Court pursuant to the Stipulation of the Parties to Extend Briefing Schedule; the Court being fully apprised in the matter and good cause appearing

IT IS HEREBY ORDERED THAT the current briefing schedule be extended an additional two weeks from the dates currently set.

DATED this 21st day of July, 2014.

A handwritten signature in black ink, appearing to read "Stephen Dunn", written over a horizontal line.

STEPHEN DUNN
Sixth District Judge

cc: Office of the Prosecuting Attorney
Office of the Public Defender

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 AUG 13 PM 4:13

BY KV
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

)
) CASE NO. CR-2013-864-FE-A
)

) BRIEF IN SUPPORT OF MOTION
) TO SET ASIDE VERDICT AND
) MOTION FOR NEW TRIAL;
) AMENDED MOTION TO SET
) ASIDE VERDICT AND MOTION
) FOR NEW TRIAL; AND MOTION
) FOR DISQUALIFICATION
)
)

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V. Reynolds, Deputy Public Defender, and submits the following brief in support of Defendant's Motion to Set Aside Verdict, Motion for New Trial and Motion for Disqualification.

INTRODUCTION

Pursuant to Rule 201, I.R.E. the court can, on its own motion, take judicial notice of the pleadings, discovery requests and responses and other materials in other judicial proceedings.

Brief in Support of Motion to Set Aside Verdict and Motion for New Trial; Amended Motion to Set Aside Verdict and Motion for Disqualification

Page 1

Certain arguments are based on proceedings in other cases requiring this court to take judicial notice. The documents are also attached to affidavits submitted in support of the motions.

COURSE OF PROCEEDINGS

On January 22, 2013, the State charged the Defendant, Aman Gas (Gas or Aman Gas) with Rape, in violation of Idaho Code §18-6101(6)(a) and(b) arising out of an incident occurring on January 20, 2013. The incident began the night before at the residence of Andrea Ogalla (Ogalla). On February 5, 2013, the Preliminary Hearing was held. The State called Raushelle Guzman, the alleged victim to testify. Ph. Tr. 5 -32. The State called Ann Wilcox, R.N. (Wilcox) to testify. The State inquired asking Wilcox about her special as a Sexual Assault Nurse Examination nurse (SANE). Ph. Tr. 34:5 - 9. Defense counsel stipulated to her qualifications to testify as an expert, but only for purposes of the Preliminary Hearing. *Id.* Wilcox testified she conducted her SANE exam which included insertion of swabs to take samples from Guzman's anus. *Id.* The court bound the Defendant over on the charge of rape as alleged.

Beginning in January 2013 and continuing through May 2014, the parties engaged in extensive discovery. Defendant's Motion for Discovery was filed on January 31, 2013. *See* First Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict and Motion for New Trial; Amended Motion to Set Aside Verdict and Amended Motion for New Trial; Motion to Disqualify and Amended Motion to Disqualify, Exhibit A. ¹ Paragraph 2g requested

¹ All references to any affidavits submitted in support of the motions will only referred by reference to "First Affidavit", "Second Affidavit" or "Third Affidavit" *infra*. All exhibits attached to the affidavits will be referred to by the exhibit name its alphabetical

identification of fact witnesses and 2I requested identification of expert witnesses, their vitae and opinions/summary of testimony. ² The State filed its first response on February 13, 2013. The responses to paragraphs 2h, 2I and 2j, did not correspond with Defendant's discovery request paragraphs. The State re-drafted Defendant's request and submitted its response to the modified request. The State also filed three supplemental responses to Defendant's Discovery Motion consistent with its re-drafted version of Defendant's Discovery Motion. *See* First Affidavit, B. The State also responded to Defendant's other numbered discovery requests, two through nine. Defendant filed twelve responses in compliance with Rule 16, I.C.R. and responded with specificity to each specific numbered request and numbered paragraph. The State's request incorporated provisions of Rule 16, subpart c.

The State's first response to paragraph 2g, identified fact witnesses which included Wilcox and Gina Sterner (Sterner) and included an evidence disk. First Affidavit, Exhibit A and Exhibit B. The evidence disk contained the medical records of Guzman and Gas, and recordings of Sterner's SANE examination of Aman. The State's first supplemental response, response 2g, added an additional fact witness, Jamie Femreite and also included the May 2, 2013, lab report. First Affidavit, Exhibit C. The State continued to respond according to the State's re-draft of Defendant's Discovery Motion. The State did not identify any expert witness nor respond to request paragraph 2I.

The State's Second Supplemental Response, paragraph 2g, identified an additional fact

designation.

² Defendant's discovery incorporates Rule 16(b), I.C.R.

witness, Rylene Nowlin, and made reference to emails indicating the August 27, 2013 had been provided to counsel. First Affidavit, Exhibit D. The State submitted a response to its version of Defendant's Discovery Motion. The State did not identify any expert witness in this response and did not respond to paragraph 2I. On April 14, 2014, the State filed its third supplemental response and continued to respond to its alteration of Defendant's Discovery Motion; made no change to fact witness disclosure, paragraph 2g, and did not respond to request paragraph 2I. First Affidavit, Exhibit F.

On May 19, 2014, trial began with the calling of more than sixty people to the jury pool.³ Questioning of the potential jurors was conducted with several being taken into chambers to address highly sensitive questions relevant to the issues in the case. Tr. 25 - 101. The in chamber's questioning resulted in the removal of several jurors, primarily victims of sexual assaults, like rape, sexual abuse. Other jurors who were also victims of rape along with other jurors who had bias in favor of the State remained in the jury panel. At the conclusion of the in chambers voir dire, Defendant if the jury panel would be asked questions about being victims of violence in general. The court ruled that it would not as it didn't "view it as a type of forcible rape in the sense that it's not forceble as statutorily defined. It's an unconscious claim, a claim of rape while a person is unconscious. So no, I don't intend to do that." Tr. 102: 17 - 21.

Defendant moved for the questions to be asked, the state objected and the court ruled that it

³ The majority of the trial audio recording is attached to the Third Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict and Motion for New Trial; Amended Motion to Set Aside Verdict and Amended Motion for New Trial; Motion to Disqualify and Amended Motion to Disqualify

would not a Defendant could not inquire in that area.” Tr. 102-103. ⁴ Defendant challenged the jury based on the State’s discriminatory exclusion of male jurors. The motion was denied.

The State claimed Aman Gas had anally raped Guzman while she was unconscious or asleep. Aman Gas asserted an Alibi defense that other individuals of the same color and physical features had committed the act upon Guzman. Defendant conceded, Guzman was anally penetrated, but claimed it was not Aman Gas. *See* Tr. 1008: 10 -11.

After opening statements, the State presented its case, calling Guzman, Wilcox, Sterner and other fact witnesses. The State called Wilcox to testify. Tr. 420 - 488. Immediately the State began asking expert witness qualification questions. Defendant objected and asked for a recess to address the motion to exclude Wilcox from testifying. As soon as the jury was out of the court, the court began yelling at defense counsel and engaged in a verbal tirade rebuking defense counsel for bringing its motion. The court then heard argument on the motion. Defendant claimed Wilcox should not be allowed to testify as an expert because of the State’s non disclosure of her as an expert witness and disclosing her only as a fact witness. The Court sustained the objection. The court held she could only testify to factual matters and not to any opinions. During her testimony, the State introduced two photos of Guzman’s anal tears. These were admitted over an objection of Defendant. The State introduced additional photos over the objection of Defendant.

After a break, the State raised the expert witness disclosure issue prior to calling both

⁴ Although Defendant, in error, requested the court inquire into this area, the court correctly ruled that force and violence were not issues in the trial based upon the allegation and the statutory definition of rape. Idaho Code §18-6101(6).

Jamie Femreite (Femreite) and Rylene Nowlin (Nowlin) to testify as DNA expert witnesses. Tr. 507-522. The curriculum vitae's of both Ms. Femreite and Ms. Nowlin were provided just prior to each of them being allowed to testify. Tr. 620: 12 - 629:3; 705: 21- 709:12. Defendant argued they should not be allowed to testify because the State had only disclosed them as fact witnesses and not as expert witnesses. The court overruled Defendant' and allowed both Femreite and Nowlin to testify as experts. The court, however, sustained Defendant's objection regarding Sterner because she had been disclosed as a fact witness, not an expert. Femreite and Nowlin testified adversely to the Defendant. Trial continued with additional witnesses being called including Sterner. The State rested and Defendant moved for dismissal. The motion to dismiss was denied.

Defendant proceeded with its defense, calling several witnesses including Dwivedi, Alshehad, Sterner, Ogalla and others. Because the court's ruled adversely on the DNA expert witness question, defense counsel was forced to not call Aman Gas to testify.

As the trial was drawing to a close, a jury instruction conference was held. The State offered several jury instructions including several lesser included instructions. Defendant objected to the lesser included jury instructions and in particular to the Battery with Intent to Commit Rape instruction. The court overruled Defendant's objection and ruled it would submit the State's lesser included instruction for the offense of Battery with Intent to Commit Rape.

Following trial, the jury acquitted on the rape charge, but found the Defendant guilty of the lesser included offense of Battery with Intent to Commit Rape. Defendant advised the court it would file a motion to set aside the verdict. Tr. 1044: 19 - 22. On May 16, Defendant moved

to disqualify the court. On May 30, Defendant filed its motion set aside the verdict and motion for new trial.

ISSUES

PART I: Evidentiary Rulings

A. The Court erred in denying Defendant's Motion to Exclude the hospital photographs.

The standard for the admission of evidence is as follows, "Where evidence is relevant to a material issue, it is admissible; however, the court has discretion to exclude it upon determining that its probative value is outweighed by its potentially unfair prejudicial impact. I.R.E. 403. On appeal, the trial court's determination will not be disturbed unless it represents an abuse of discretion. State v. Windsor, 110 Idaho 410, 716 P.2d 1182 (1985), cert. denied, 479 U.S. 964, 107 S.Ct. 463, 93 L.Ed.2d 408 (1986); State v. Fenley, 103 Idaho 199, 646 P.2d 441 (Ct. App.1982). "[Rule 403] protects against evidence that is unfairly prejudicial, that is, if it tends to suggest a decision on an improper basis." State v. Floyd, 125 Idaho 651, 873 P.2d 905 Idaho App.,1994: Wade v. Haynes, 663 F.2d 778, 783 (8th Cir.1981).

The court's decision to admit the sexual assault photographs was an abuse of discretion. The issue of penetration and the resulting injuries to Guzman's anus depicted in the photos, was not in dispute. (Tr. 1008: 10-11). The photos were unnecessary to assist the jury in understanding the evidence presented by Ann Wilcox or to assist the jury in understanding Guzman's testimony. Ms. Wilcox was fully able to describe the injuries to Guzman's anus without the assistance of the photos. The photos were offered to inflame the jury's passions

against Aman Gas. They were offered to enhance the degrading act of someone raping Guzman anally. This evidence was offered to suggest a decision in favor of the State and to suggest a guilty verdict on an improper basis, the degrading act of anal rape.

The second error occurred when the court allowed additional photos taken during the SANE examination to be introduced to the jury. The court had denied Defendant's motion to exclude the photos and ruled the State could introduce only two of the eleven photographs. The admission of the three additional photos was erroneous. It was cumulative evidence. The admission of the additional photos was offered to further enhance the alleged anal rape of Guzman. The admission of the additional photographs was highly inflammatory and illegally prejudicial to the Defendant, Aman Gas. The photos prejudiced Aman Gas's right to a fair trial.

B. The court committed error resulting in a biased jury pool from which the jury panel was selected.

The Idaho appellate courts have stated,

A criminal defendant has a constitutional right to trial by an impartial jury. U.S. CONST. amends. V, VI, XIV; IDAHO CONST. art. I, §§ 7, 13. This right is recognized in Idaho Code § 19-1902, and the criminal defendant has the ability to strike potential jurors for cause if actual or implied bias exists. I.C. § 19-2019; see also I.C.R. 24(b) (addressing the procedure for voir dire examination and challenging potential jurors for cause). Actual bias is "the existence of a state of mind on the part of the juror in reference to the case, or to either of the parties, which, in the exercise of a sound discretion on the part of the trier, leads to the inference that he will not act with entire impartiality." I.C. § 19-2019(2). State v. Rey Alfredo Ornelas, et.al., 2014 Opinion 58 (Ct. App. July 24, 2014).

The court permitted bias jurors to remain in the final jury pool facilitating the risk that biased jurors would be selected to jury. This occurred during the in chamber voir dire of

individuals jurors. The court asked four highly sensitive questions, two which were highly relevant to this case.

Three: Have you or any close family member ever been the victim of a crime or conduct the same or similar to the offense or conduct the defendant has been charged with in this case?

And four: Do you belong to any organization whose purpose it is to oppose any type of crime or conduct such as charged here? Tr. 25:11 - 26:7.

Several potential jurors disclosed sensitive information regarding being victims' of sexual assault or abuse or having personal knowledge of sexual assault/abuse victims. The first two jurors, #4 and #6 disclosed they were victims of sexual assault. The court did not excuse these jurors even though the experiences were similar to those of Guzman clearly indicating they were biased and could not be fair and impartial.

The court excluded several jurors because of the same potential bias, jurors, 12, 18, 19, 27, 47, 48, 50 and 59 a victim of sexual assault. They were excused on motion of the court.

Juror # 43 remained in the jury pool after he had indicated he wanted "to make sure that they're (women) protected and they carry the proper tools for self-defense" Tr. 40:4 - 7. He was "frustrated" seeing "women as being victimized." Tr. 45: 21 - 22. He admitted he was particularly sensitive to a women claiming to have been raped. Tr. 46: 3 - 7. Despite this bias, the court did not excuse the juror. Juror #30 remained the panel even though her daughter was a rape victim. She was asked "are you going to find him guilty just because that's the charge?" Tr. 56: 15 - 16. She would "be more prone to that just because it happened in our family." Tr. 56: 17 - 18. The court was fully aware that this juror was biased and did not excuse the juror. The juror stated the case was hard for her, it was a raw spot, it was a bothersome topic and upsetting

because her daughter was a rape victim; she did not want to be on the jury. Defense counsel challenged for cause and the motion was denied. Tr. 62.: 2 - 19.

Juror #37's sister was molested and remained on the panel. An advocate for victim's of sexual assault, juror #32, was allowed to be on the jury. Tr. 63 - 69. During her voir dire, the court singled out defense counsel and reprimanded him for pursuing questions to determine this juror's qualification to be fair and impartial. Tr. 69; 14 - 18.

Juror #44 remained on the jury panel despite admitting her daughter was a rape victim; the Defendant had to present a compelling defense to prove innocence; that where there is smoke there is fire; Defendant had to put on a defense; and the Defendant had to prove innocence. Tr: 17 - 19; 81: 9 - 11; 82:18 - 83:15. The challenge for cause was denied Tr: 84: 2 - 16.

Juror 58 advised his wife had been hurt because she had been sexually victimized as a child. Tr. 96: 12 - 13. He admitted he had preconceived ideas the Defendant was guilty and the only reason he was here was "because the state has quite a bit of evidence that your client committed the crime." Tr.98: 4 - 9. He admitted he did not want to be on this type of case. Tr. 98:20. He remained in on the jury panel from which the jury would be selected.

The fact several of this select class of jurors were excused by the court does not mitigate the evidence there was a selective pattern of inclusion of biased jurors. Several jurors with bias against the Defendant remained in the jury pool; Jurors 4 and 6, 30, 44 and 58. ⁵

A biased jury pool was facilitated by the court's own actions. Allowing knowingly biased

⁵ To the best of defense counsel's recollection jurors 30 and 44 were excused only after the court determined there were a sufficient number of jurors from which to select the 12 panel jury. Tr. 144: 20-23. The other biased jurors were not excused.

juror's to remain in the jury pool from which the final jury would be selected directly impaired the Defendant's right to a fair trial, a right the Defendant did not waive. The Court was inconsistent in the exercise of its discretion excusing some jurors who had been victims of sexual abuse or rape while allowing other jurors to remain in the panel. The court committed fundamental error by including biased jurors in the jury pool.

C. Batson Challenge

One of the fundamental concepts of due process is the right to a fair trial comprising a jury of a person's peers. The Court of Appeals stated, "In *Batson*, 476 U.S. at 85, the United States Supreme Court held that discriminatory use of peremptory challenges to exclude persons from jury service on account of their race violates the Equal Protection Clause of the United States Constitution. State v. Rey Alfredo Ornelas, et.al., 2014 Opinion 58 (Ct. App. July 24, 2014) The *Batson* holding has been extended to peremptory challenges based on gender. *Id.* The analysis for substantiating a Batson challenge requires an assessment of three factors.

First, a defendant must make a prima facie showing that a peremptory challenge has been exercised on the basis of [gender]. Second, if that showing has been made, the prosecution must offer a [gender]-neutral basis for striking the juror in question. Third, in light of the parties' submissions, the trial court must determine whether the defendant has shown purposeful discrimination. *Id.*

The State engaged in an overt usage of peremptory challenges based on gender to exclude males from the jury panel. After the jury selection process, Defendant challenged the panel for cause based upon the State's exercising its firsts nine peremptory challenges and striking nine males. Tr. 153: 2 - 16. The State admitted it used its peremptory challenges based on gender. When challenged, the State could not provide any plausible basis for excluding males with its

first nine peremptory challenges. This was purposeful discrimination to obtain a panel of females who would be more favorable to Guzman, more favorable to the State.

D. The Court erred in allowing the State to present the testimony of the DNA Experts, Rylene Nowlin and Jamie Femreite.

Idaho Criminal Rules, Rule 16(b)(6) states:

(6) States witnesses. Upon written request of the defendant the prosecuting attorney **shall** furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions of any such person which is within the knowledge of the prosecuting attorney. The prosecuting attorney shall also furnish upon written request the statements made by the [witnesses].

This rule requires the prosecution to do what is mandated. The obligatory word "shall" requires compliance. The sanction for non-compliance is the exclusion of the witnesses. Idaho Criminal Rule, Rule 16 (b)(7) states:

(7) Expert witnesses. Upon written request of the defendant the prosecutor **shall** provide a written summary or report of any testimony that the state intends to introduce pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence at trial or hearing. The summary provided must describe the witnesses opinions, the facts and data for those opinions, and **the witness's qualifications . . .** (Emphasis added).

The language of the rule is mandatory. The rule unequivocally states the prosecution "shall" do as required. "Shall" is a mandatory/obligatory word not an optional word. Compliance is therefore required. The language of the rule does not include any discretionary language.

In State v. Miller, 133 Idaho 454, 988 P.2d 680 (1999), the court addressed the late disclosure of an expert witness. The defendant identified its investigator as a fact witness. The State objected claiming non-disclosure. The court overruled the State's objection and allowed

the witness to testify. The witness began testifying as an “expert witness.” The State objected and court sustained the objection and ruled the witness could not testify as an expert witness on the grounds the defendant had not complied with Rule 16(c)(4). The Supreme Court affirmed stating “It was only when it became apparent that Durant was going to testify as an expert that Durant was excluded.” At 457, (Emphasis added). The Supreme Court also held the trial court properly weighed the right to a fair trial for the Defendant and prejudice to the State.

Defendant asserts that non-compliance with a Rule 16(b)(7) request which has mandatory language does not allow the court discretion to circumvent its mandatory language.

On January 13, 2013, Defendant filed its Discovery Motion. After making generalized requests in conformance with Rule 16, I.C.R., Defendant made two very specific requests in paragraph 2g and requesting the State identify its fact witnesses. At paragraph 2I, Aman Gas requested the State to identify its expert witnesses. *See* Rule 16(b)(7). On February 13, 2013, the State filed its first Discovery response. The State responded to paragraph 2g by disclosing various individuals who would be called as fact witnesses, including Ann Wilcox and Gina Sterner. The State did not respond to Defendants 2(I) request for disclosure of expert witnesses and all other matters required by the request and Rule 16(b)(7). The State knowingly altered the requests set forth paragraphs 2h and 2I, drafted its own request and responded to the altered requests. The State did not respond to paragraph 2I.

On or about June 14, 2013, the State filed its First Supplemental Response to Discovery Request. The State supplemented its responses to requests paragraphs 2d, 2e, 2f, 2g, 2h and 2I. This disclosures included the May 10, 2013 lab report. It supplemented its fact witness

disclosure, response 2g, and identified one additional fact witness, Jamie Femreite, ISP Forensic Lab. The State's response did not claim the May 10, 2013 report to be the report or opinion of an expert witness. It did not include Femreite's purported qualifications. The State responded to its altered requests, paragraphs 2h and 2i by to its prior responses. This supplemental response to 2i did not identify any expert witnesses, their opinions or qualifications as required by Rule 16(b)(7), I.C.R.

On September 6, 2013, the State filed its Second Supplemental Response to Discovery Requests and added another fact witness, Rylene Nowlin, ISP Forensic Lab-Meridian and referenced August 26, 2013 lab report which had been sent to defense counsel by email. See First Affidavit of Kent V. Reynolds. Again, the State did not identify this person as expert witnesses; did not provide their qualifications as required, and did not disclose the August 2013 report as a report or opinion of an expert witness required by Rule 16(7).

On September 23, 2013, Defendant filed its Third Discovery Motion requesting certain DNA materials. The State responded on October 28, 2013. First Affidavit, Exhibit E. The response included a DVD, labeled Lab Evidence Disk, which contained over 200 pages of materials. This response, still did not identify any person as an expert witness in conjunction with DNA materials.

On April 15, 2014, the State filed its Third Supplemental Response to Discovery. It responded to the State's altered paragraphs 2h and 2i requests. It reiterated in its 2g response that Wilcox, Gina Sterner, Jamie Femreite and Rylene Nowlin were facts witnesses, not expert witnesses. No 2i response was supplied. No expert witness disclosure occurred and the two labs

reports were not identified as the opinions of an expert witness.

Between March 13, 2013 and May 8, 2014, the State filed responses to Defendant's various discovery requests, numbers two through nine. At no time did the State identify any person(s) as expert witnesses or supply any report or opinion asserting it to be that of an expert witness.

The State did not comply with Rule 16(b)(7). The State failed to disclose any person who would testify as an expert witness. The State did not provide any so-called expert witness qualifications. The disclosure of the lab reports prepared by Ms. Femreite and Ms. Nowlin were disclosed as statements of fact witnesses who may testify at trial, not as reports and opinions of expert witnesses as required by Rule 16(b)(7). Rule 16(b)(7) is mandatory. The State shall comply with the requirements of the rule. No exception is identified in the rule.

The court also erred in finding Defendant was not prejudiced by the State's knowing, wilful and purposeful non-disclosure of expert witnesses. The State is bound to its disclosure and Defendant was prejudiced. Defendant was denied an opportunity to respond to the so-called expert testimony. The Defendant had no obligation to file a motion to compel as there was nothing to compel. The Defendant was further prejudiced because the two reports did not address the issue of DNA transfer. The ruling denied the Defendant his right to a fair trial. The court erred in denying Defendant's Motion in Limine to exclude this testimony.

E. The court erred in giving the Battery with Intent to Commit Rape jury instruction.

The issue is whether Battery with Intent to Commit Rape is a lesser included offense of rape defined by Idaho Code §18-6101(6). This issue was addressed in State v. Bolton, 119 Idaho

846, 810 O. 2d 1132 (Ct. App. 1991). The Court of Appeals concluded the crime of Battery with Intent to Commit Rape was a lesser included offense of forcible rape. The conclusion that Battery with Intent to Commit Rape is a lesser included offense of forcible rape was not a blanket inclusion covering all rapes made illegal by Idaho Code §18-6101; it was limited to forcible rape.

The court submitted the instruction in violation of Idaho appellate court's holding that battery with intent to commit rape is only a lesser included of forcible rape. There was no legal justification in the law for the submission of this instruction.

In addition, the State admitted this rape was not a crime of violence and that it would be confusing to have jury instructions suggesting it was a rape involving violence. Tr. 103: 5 - 12.

The court had ruled that this case did not involve violence and no voir dire would occur on that question. The court stated, "I don't view it as a type of forcible rape in the sense that it's not forceable as statutorily defined. It's an unconscious claim, a claim of rape while a person is unconscious. So no, I don't intend to do that." Tr. 102: 17 - 21. At the outset, the trial was based on a rape not involving violence. Battery is a crime of violence and as the was not violent crime, that it did not involve force or being a forcible rape, therefore, the court erred in including the battery with intent instruction.

The inclusion of this instruction permitted the jury to find Aman Gas guilty of one of two crimes when the jury should only have been instructed on the crime of rape. This allowed the jury to find guilt even if there was lack of evidence to support a finding of guilt for the crime of rape. The jury was misled by the jury instruction and the inclusion of the battery instruction was highly prejudicial to the Defendant. The jury had to conclude that if it found Aman Gas not

guilty of rape, it had to find Aman guilty of the battery with intent crime.

Aman Gas was prejudiced by the inclusion of the instruction and the court erroneously instructed the jury contrary to the holding in Bolton.

F. The Court erred in failing to instruct the jury on the lesser included offense of Misdemeanor Battery.

The assertion of this argument does not constitute the waiver of Defendant's claim the court erred in instructing the jury on the crime of battery with intent to commit rape on the grounds stated in section F. Nor does Defendant concede that misdemeanor battery is a lesser included of the crime of rape. The case law cited and its application are triggered by the court's erroneous ruling.

A trial court "shall instruct the jury with respect to lesser included offenses provided that either party requests such an instruction and there is a reasonable view of the evidence presented in the case that would support a finding that the defendant committed such lesser included offense but did not commit the greater offense." State v. Cochran, 149 Idaho 688, 689, 239 P.3d 793, 794 (Ct. App. 1983). "[W]hen reviewing jury instructions, we ask whether the instructions as a whole, and not individually, fairly and accurately reflect the applicable law." State v. Bowman, 124 Idaho 936, 866 P.2d 193 (Ct. App. 1993) (Emphasis added). "To be considered reversible error, an instruction must have misled the jury or prejudiced the complaining party." State v. Bowman, 124 Idaho 936, 866 P.2d 193 (Ct. App. 1993)(Emphasis added).

As a predicate to the following argument and as indicated in Part F, the Idaho appellate courts have held that battery with intent to commit rape is only a lesser included crime of forcible rape. State v. Bolton. The instructions submitted to the jury do not as a whole or individually

state the applicable law.

Battery with intent to commit rape begins with the underlying crime of misdemeanor battery. The battery with intent instruction adds an additional element; the specific intent to commit the battery for the specific purpose to rape the victim by the insertion of his penis into a women's vagina.

Once the court had overruled Defendant's objection to the battery with intent instruction, the court was then required to instruct the jury on the additional lesser included offense of misdemeanor battery, a violation of Idaho Code §18-903 and 18-904. The court was required to include IICI 904, the battery elements instruction. The record establishes the State requested the battery definition in its jury instructions. Defendant objected and the court overruled the objection. Once this occurred, the court was required to submit to the jury a verdict form which included the misdemeanor crime of battery. The error the court made in including the battery with intent to commit rape was compounded by the court's failure to instruct the jury on the lesser included offense of misdemeanor battery. The effect of this compounding error is that the jury was misled. With this prejudicial error, the jury could only conclude it had to find Aman guilty of battery with intent if it did not find him guilty of rape.

Not only did the court err in not submitting all lesser included offense to the jury, it erred in not indicating in the battery with intent to rape instruction that it was a felony crime. In order for a jury to fully understand lesser included offenses and the seriousness of crimes requires the court to be advised of what is a felony and what is not. Juries are not trained or versed in the law to understand the legal distinctions of what is a lesser included offense.

F1. The court erroneously piecemealed the one single criminal episode into multiple criminal episodes/acts when it elected to submit the Battery with Intent Jury instruction prejudicing the Defendant's right to a fair trial.

In a recent case, the Court of Appeals stated, "The Double Jeopardy Clause is not such a fragile guarantee that prosecutors can avoid its limitations by the simple expedient of dividing a single crime into a series of temporal or spatial units. State v. Moffat, 154 Idaho 529, 300 P.3d 61 (Ct. App. 2014), quoting Brown v. Ohio, 432 U.S. 161, 168-69, 97 S.Ct. 2221, 2226-27, 53 L.Ed.2d 187, 19596 (1977). "We also conclude that an attempt to separate Moffat's [conduct] during the same dispute is an impermissible attempt . . . to divide a single crime into a series of temporal or spatial units to avoid double jeopardy limitations." At 534, 66. Defendant recognizes State v. Moffat primarily dealt with the issue of double jeopardy. The piecemeal analysis, however, is applicable to this case.

The State alleged one criminal act. It alleged sexual intercourse with Guzman while she was unknowing or unconscious of the event. Penetration is the defining element of rape. The issue of penetration was not disputed.

The inclusion of the battery with intent to commit rape was erroneous as the inclusion of the instruction and the inclusion of the rape instruction was an illegal attempt to divide one single episode into a series of temporal or spatial units. There was one crime, the alleged crime of rape and nothing else.

Defendant refers the court to State v. Amerson, 129 Idaho 395, 925 P. 2d 399 (Ct. App. 1996). In that case, defendant requested the court instruct the jury on several lesser included instructions including battery with intent to commit rape. After discussing a trial court's duty to

instruct a jury only on the offenses supported by a reasonable view of the evidence, the court concluded the jury should not be instructed on the lesser included offenses. The Court of Appeals agreed stating that based upon the facts, there was no reasonable view to support any allegation the defendant committed the lesser include offenses. The act of rape and forcible penetration were not disputed. The court stated, "Amerson's defense was not based on the degree of these crimes, but rather that he was not the one who committed them" At 408, 404. The record did not support a finding for the inclusion of the lesser included offences.

The same is true in this case. The issue of the penetration was not contested. Penetration is the key component of rape, and it is penetration no matter how slight. Aman Gas's defense was that he did not commit the crime of rape because he was not present in the house when the alleged crime occurred. There was no reasonable view from the evidence for the submission of the lesser included battery with intent to commit rape.

The State is bound to its allegation in determining what jury instructions should be submitted to a jury. Applying Idaho's double jeopardy analysis is helpful in addressing this issue. Idaho has adopted the pleading theory. *See State, Thompson*, 101 Idaho 430, 614 P. 2d 970 (1980). The State alleged that Aman Gas anally penetrated Guzman while she was unconscious of the nature of the act. This controls governs the nature of the jury instructions that must be submitted to a jury. Obviously, the rape instruction is required. The pleadings do not allege any type of battery to commit the rape. Thus, there is no basis for the inclusion of the battery with intent to commit rape. The court's inclusion of this instruction was erroneous.

F2. There is a variance between the charge as alleged and the jury instructions permitting the jury to convict on a theory not alleged.

In State v. Montoya, 140 Idaho 160, 90 P.3d 910 (Ct. App. 2004), the court addressed the issue of variance. "A variance arises when the evidence adduced at trial establishes facts different from those alleged in the indictment. (Citations omitted). Where the jury instructions allow the jury to convict the defendant of the charged crime, but on one or more alternative theories than alleged in the charging document, a variance occurs." *Id.* There is a two fold inquiry in assessing the issue of variance. "First, we must determine whether there is a variance between the information used to charge the offense and the instructions presented to the jury. (Citations Omitted). Second, if a variance exists, we must examine whether it rises to the level of prejudicial error requiring reversal of the conviction." *Id.* "A variance between a charging instrument and a jury instruction constitutes a due process violation and necessitates reversal only when it deprives the defendant of the right to fair notice or leaves him or her open to the risk of double jeopardy." *Id.*; *see also* State v. Windsor, 110 Idaho 410, 417-18, 716 P.2d 1182, 1189-90 (1985). The issue becomes one of fair notice and whether defendant was misled or embarrassed in preparation. *See* State v. Hickman, 146 Idaho 178, 191 P.3d 1098 (2008).

There is a variance between the allegations charged and the jury instructions submitted to the jury. The State charged a single act of rape; penile penetration of the anus while the victim was unconscious of the act. No additional allegations were asserted by the State. The Prosecutor's Information does not contain any information suggesting the State would also seek and assert the additional claim that the single conduct also constituted battery with intent to commit rape. The Information does not allege and type of battery contact. The Defendant was not on notice of the State intending to seek a secondary claim of battery with intent to commit

rape. All of the discovery and evidence adduced at trial did not put Defendant on notice of this additional criminal assertion. The defense focused entirely on the issue of rape.

The verdict cannot stand due to the due process violation of the variance between the Information and the jury instructions which permitted the jury to find guilt on alternative theory.

G. The Court erred in denying the Motion In Limine to Exclude the State's DNA expert witnesses based upon inconsistent evidentiary rulings.

1. Defendant asserts the trial court abused its discretion in making inconsistent evidentiary rulings regarding the State's knowingly, willingly and intelligent decision to refusal to comply with Rule 16(b)(7), I.C.R. It is imperative to note that in the State's responses to Defendant's discovery motions, the State only disclosed fact witnesses including Wilcox, Sterner, Nowlin and Femreite. The court's inconstant evidentiary ruling implicates the courts action within the trial and the court's decision in contravention of other Sixth District Court rulings.

The court granted Defendant's motion disallowing Wilcox and Sterner to testify as expert witness on the grounds the State had not complied with Rule 16(b)(7).⁶ The court denied Defendant's motion allowing the State to call and exam disclosed fact witnesses to testify as expert witnesses in contravention of Rule 16(b)(7), I.C.R.

The court committed fundamental error by failing to apply the same evidentiary standard to the State's non-disclosed expert witnesses, witnesses disclosed only as fact witnesses. The court did not apply Rule 16(b)(7) equally to the two sets of witnesses. On one hand the Court

⁶ Contrary to what the court had ruled, the court allowed Wilcox to be qualified as an expert and to testify as an expert witness. Tr. 427 - 439.

granted the motion to exclude Wilcox and Sterner, disclosed only as fact witnesses, and not as expert witnesses, and then, on the other hand deny the motion and permit Femreite and Nowlin to testify as DNA experts. The court applied Rule 16(b)(7) differently to the same class of fact witnesses but in doing so reached a decision highly favorable to the State, but highly prejudicial to Aman Gas. The motion to exclude was based upon the same Rule 16(b)(7), I.C.R. violation, i.e. non-disclosure of expert witnesses along with disclosure of the qualifications and opinions. The court applied different standard to insure the State could call the DNA witness.

2. In further support of this issue, inconsistency of evidentiary decisions, Defendant asserts the Rule 16 expert witness disclosure exclusion is applied differently from court to court. Defendant has Lindsey Blake's pertaining to State v. Todd Edmo, Bannock County Case No. CR-2013-3258-FE-B, dealing with the fact/expert witness non-disclosure issue.

Judge David Nye, presiding, had the same question before it; the issue of disclosure of a fact witness, who should have been disclosed as an expert witness, and non-disclosure of that required by Rule 16(c)(4) and a violation of the rule.

Defense counsel had not disclosed Dr. Traughber as an expert witness. He had been listed as a fact witness. The State moved to exclude Dr. Traughber from testifying because Defendant had failed to disclose him as an expert witness. This assertion was made even when Dr. Traughber's report had been provided to the State. The prosecutors claiming a violation of Rule 16(c)(4) were JaNiece Price and Jeff Cronin, the same attorneys as in this case. The trial court granted the State's Motion on two grounds, the first of which is implicated in this case. The court found defendant had not disclosed Dr. Traughber as a expert witness, had only

disclosed him as a fact witness, and had not complied with Rule 16(c)(4), I.C.R. The court's decision granting the State's motion to exclude Dr. Traugher was decided May 14, 2014, five days before this case began.

The question is how can two sister courts within the same district apply Rule 16 differently. Judge Nye interpreted Rule 16 as mandatory. This court ruled Rule 16 was not mandatory negating mandatory compliance. In both cases, the non-compliant party had provided all of the information to which the expert witness would testify. In both cases, the receiving party was on notice of the anticipated testimony. In both cases, the court's rulings favored the State to the prejudice of the defendant. The inconsistent evidentiary rulings implicates Defendant's constitutional right to equal protection under the law. There is no justification for the inconsistent rulings except to weight the trial in favor of the State. Based upon the foregoing, the court abused its discretion by applying Rule 16 inconsistently. It was decided to protect the State and exonerate it of willful and knowing violation of Rule 16(b)(7).

H. Court abused its direction.

Defendant asserts compliance with Rule 16(b)(7) is mandatory. The only appropriate sanction is exclusion of witnesses who will testify as expert witnesses for non-compliance. If the Court has discretion to circumvent Rule 16(b)(7)'s mandatory language, then the rule becomes a nullity.

The next question is whether the court abused its discretion in allowing the State's DNA experts to testify over defense counsel's objection. The test was announced in State v. Lamphere, 130 Idaho 630, 945 P.2d 1 (1997). It requires a court to weigh the prejudice to the

defendant and the right of the defendant to a fair trial. *See also*, State v. Miller, 133 Idaho 454, 988 P. 2d 680 (1999). The issue in Lamphere was the late disclosure of a witness. The court determined the trial court abused its discretion in excluding the witness weighing the prejudice to the State and the defendant's right to a fair trial.

In State v. Miller, 133 Idaho 454, 988 P.2d 680 (1999), the issue of prejudice was addressed as a result of the disclosure of a fact witness who was an expert witness. The Court found allowing the witness to testify when they had not been disclosed as an expert witness was prejudicial to the State and excluded the testimony.

In this case, both prongs of the test, prejudice and fair trial are implicated but in behalf of Aman Gas. Prejudice to Aman occurred when the State was allowed to call Femreite and Nowlin as DNA expert witnesses and testify regarding their qualifications, the source of the DNA, their confirmation the samples contained DNA, and there conclusions the DNA of Ms. Guzman was found under the fingernails and on the penis of Mr. Gas. The Defendant relied upon the State's numerous assertions these two witnesses were fact witnesses not DNA expert witnesses. The confirmation the samples contained DNA of the Defendant was critical. The outcome of the case would have been different if this evidence had not been presented to the jury via the State's DNA witnesses, Nowlin and Femreite.

Prejudice also occurred because the qualifications of the two DNA experts was never provided prior to trial as required by Rule 16(b)(7). Defendant again relied on the States's overt and continuous responses to the State's altered discovery requests which negated its duty to disclose experts, their opinions and their qualifications. This is not a case of non-disclosure by

the State. This is a case wherein the State knowingly and willingly and legally disclosed these two individuals as fact witnesses.⁷ This is a case where the State willingly, knowingly and intelligently did not disclose any expert witnesses, their qualifications or their opinions. The two reports, May and August 2013 were not disclosed by the State as the opinions of Nowlin and Femreite, required by Rule 16(b)(7). Aman had every right to rely on the State's representations regarding its discovery disclosures. Aman was prejudiced because once the State sought to introduce Femreite and Nowlin's testimony and to qualify them as expert witnesses without 1) pretrial disclosure; 2) without providing their trial opinions; and 2) without providing the expert credentials prior to trial, prejudiced the Defendant in preparing for trial. Defendant did not prepare for their testimony as expert witnesses. As indicated at trial, Defendant relied on the State's disclosure representations or rather, non-disclosure and did not retain an expert witness to testify.

Prejudice occurred because the DNA witnesses appeared to discount the possibility of DNA transfer. DNA transfer was never disclosed in either of the lab reports. Transfer DNA is not tested at the State lab. Tr. 719. Transfer DNA was highly probable when looking at the facts this case. Guzman admitted she had been in physical contact with Gas prior to Gas leaving the home and going to Hooligan's. Andrea Ogalla testified Guzman was all over Aman, touching him in places and placing her bare hands all over Aman's body transferring her DNA to Aman. Guzman testified she could not remember when she kissed and sucked on Aman's fingers. Tr.255: 4- 13.

⁷ There were four fact/expert witnesses disclosed. This argument focuses primarily on the State's DNA witnesses who were allowed to testify over objection.

The DNA evidence and its transfer was a critical part of this case. As stated, the issue of transfer DNA was not addressed, refereed to or an opinion presented in the reports of Femreite and Nowlin. The inclusion of this evidence adversely prejudiced Aman's right to a fair trial.

The evidentiary playing field was turned in favor of the State when the court erroneously allowed Femreite and Nowlin to testify as expert witnesses. Fairness requires notice and procedural fairness. The Rule 16 discovery rules are designed to maximize fairness for both parties. Duties are imposed upon both the State and the defendant to facilitate fairness. The impact of Femreite and Nowlin's testimony was fundamentally unfair. Defendant was denied a fair trial by 1) allowance of highly detrimental prejudicial DNA evidence to be presented to the jury; 2) by the lack of opportunity to prepare for the expert witness testimony; 3) the lack of pretrial disclosure of the DNA witnesses expertise; 4) the inability to cross-examine effectively on their qualifications, their opinion and the DNA touch transfer issue; and 5) to retain its own expert to testify on behalf Aman regarding the high probability of touch DNA occurring and the methods for DNA transferral.

I. The court erred in denying the motion to exclude the DNA witness testimony on the grounds Defendant was on notice of the anticipated testimony.

The court's erred in denying Defendant's Motion to exclude the State purported DNA witnesses on the grounds Defendant was on notice of the State's experts, and their anticipated testimony. *See* Tr. 611: 13.

The issue of notice of a potential witnesses testimony is an interesting matter. Applying the court's legally unsubstantiated standard of prior notice, the court applied this standard prejudicially, unfairly and inconsistently. A fair and consistent application of the court's own

standard would require the court to have granted Defendant's motion. If notice is the defining factor rather than compliance with the mandatory requirements of Rule 16, I.C.R., the court is now required to exam the facts and conclude it erred in its application of its own standard and its erroneous interpretation of the law.

The facts establish the following. The State had Wilcox testify as an expert witness at the Preliminary Hearing. This was prior to any discovery having been filed or responded to. The State's responses and supplemental response were filed over a nine month period of time. In the State's first response, it produced an evidence disk. It contained the medical records of Guzman. Defendant was on notice of Wilcox's anticipated testimony based the disclosure of Guzman's medical records. The State disclosed Aman medical records and the recording of Steiner's examination. Defendant was on notice of Sterner's anticipated testimony.

Defendant also had the advantage of having had an opportunity to cross-exam Wilcox during the Preliminary Hearing. Defendant was on notice of her anticipated trial testimony.

Likewise, the State was on notice of the need to disclose Wilcox as an expert witness and to provide her qualifications. Ph. Tr. 34:5 - 35:2. The State was on notice of its duty to comply with Rule 16(c)(4), I.C.R. The State was on notice and purposefully elected to not disclose Ann Wilcox as an expert witness.

The court granted Defendant's Motion to exclude Wilcox and Sterner's testimony and restricted it to non-expert witness testimony based upon the State's violation of Rule 16(b)(7). This was granted even though Defendant had notice of their anticipated testimony including any potential so called expert witness testimony.

In denying Defendant's motion to exclude Femreite and Nowlin, the court relied on the assertion Defendant was on notice and had been on notice for several months of their anticipated testimony. The court erroneously applied the notice factor unequally, assuming this is a factor the court can consider. Wilson and Edmo hold differently. If Defendant had notice of Wilcox's and Sterner's anticipated testimony and the court sanctioned the State for its Rule 16(b)(7) violation, there is no justification for the court's ruling to permit Nowlin and Femreite to testify based upon the notice assertion. The law should be applied equally. The mandatory requirements of Rule 16(b)(7) should not be applied differently to favor the State.

Based upon the forgoing, the court abused its discretion in denying the motion to exclude Femreite and Nowlin from testifying as expert witnesses. Notice of anticipated testimony is not the controlling factor. Compliance with Rule 16's mandatory requirements are controlling.

J. The court erred in denying the motion to exclude the DNA witnesses on the grounds the non-disclosure was a clerical mistake or an oversight.

During the argument on the objection to allow Femreite and Nowlin to testify, the State suggested the non-compliance was a clerical mistake or an oversight on the part of the State. Tr. 516: 8 - 10; 614: 17. During argument defense counsel attempted to advise the court that this issue had been raised in other cases involving Ms. Price. Tr. 518: 22 - 25. The court refused to allow Defendant to argue the so-called clerical error or oversight had occurred on prior occasions. Tr. 518-22 - 519: 3.

The prosecutor's office has engaged in a long practice of violating Rule 16 by purposefully, intentionally and knowingly re-drafting defendant's discovery requests and submitting responses consistent with its re-draft. See Second Affidavit of Kent V. Reynolds in

Support of Motion to Set Aside Verdict and Motion for New Trial; Amended Motion to Set Aside Verdict; Amended Motion for New Trial; Motion to Disqualify and Amended Motion to Disqualify. ⁸ The majority of the cases involved Ms. Price. It cannot be controverted the State had knowledge of these deficiencies and yet, still continued in this knowing and purposeful conduct.

Not only did this conduct occur prior to this case, but Ms. Price continues to engage in the same obstructionist non-compliant behavior and has engaged in the purposeful and knowing conduct of re-drafting defendant's discovery requests, responding to the State's re-writes to avoid compliance with the requests and Rule 16(b)(7), I.C.R. To say this is merely a clerical error or an oversight is not substantiated by the records. The prosecutor's office was fully aware of this issue, non-compliance with Rule 16(b)(7) prior to this case. If this was truly a clerical error as asserted by the State, the Rule 16 non-compliance matter would have been resolved years ago. But it has not. And after this trial, the State continues to re-write the discovery motions, prepare responses to its re-writes to avoid compliance with the discovery requests and the requirements of Rule 16.

In addition, the court's refusal to hear argument on this issue was erroneous. This evidence was and is relevant to the issue of the State's willful, voluntary and knowing decision to not comply with Rule 16. It was relevant to the decision on the issue to allow the State's DNA witnesses to testify despite the State's Rule 16(b)(7) violation. This long standing conduct

⁸ Pursuant to Rule 201, the court is authorized to take judicial notice of the pleadings in other cases. These include the documents attached to the Second Affidavit of Kent V. Reynolds.

undermines any assertion it was merely a clerical error or merely an oversight by the State, and undermines the court's decision denying the motion to exclude the DNA witnesses' testimony.

K. Insufficiency of the evidence to support the jury verdict.

The record contains the evidence presented to the jury. The State's evidence consisted of Guzman's testimony and the DNA witnesses testimony. The other witnesses provided collateral information pertaining to the case, but do not support the jury's verdict. The jury could only find guilt by accepting the testimony of Guzman and the DNA witnesses testimony.

1. Alibi.

The evidence introduced at trial established Aman Gas was not at the residence when the alleged rape occurred. Evidence from several witnesses clearly established Aman was not present and could not have been the one to have raped Guzman. The evidence further established the rape occurred between one and two hours prior to Aman returning to the home.

2. The fingernail and penile DNA does not support the verdict.

The DNA evidence does not support the verdict. Two pieces of DNA evidence from Ms. Guzman was found on Aman. The fingernail DNA and the one single cell on his penis.

The fingernail DNA's main component was amylase. The source of this DNA is saliva. The evidence was conflicting on this issue. The State's theory focused on Guzman's testimony the assailant had during the assault in some manner placed his fingers in her mouth. Again the physical evidence does not support her account. It was physically impossible for the assailant to be standing and insert his penis into her anus and simultaneously place his fingers in her mouth. The low height of the couch and the height of Aman Gas would render this scenario impossible.

The facts established through Guzman and Ogalla that Guzman was sexually aggressive towards Aman. Guzman was dry humping Aman; placing her head in his crotch area; laying on him and other sexually related fore-play. She was having extensive physical contact with Aman. Guzman admitted she was intoxicated and it impaired her memory. She could not remember her doing the acts described by Ogalla including when she licked or sucked on Aman's fingers. The description of her sexual acts is consistent with finding of saliva based DNA under the finger nails of Aman. This evidence does not support the jury's verdict

The other piece of DNA evidence was the single Guzman cell found on Aman's penis. The DNA witnesses offered by the State confirmed this single cell was a skin cell. Nowlin reluctantly confirmed that transfer of DNA could occur during the sexual acts Guzman performed on Aman.

Wilcox's testimony confirmed DNA samples were not collected from Guzman's anus. There were samples taken on the buttocks, around the anus, and into the anus, but the DNA results of this evidence established Aman did not have contact with Guzman. This evidence supports a finding of not guilty. It does not support the guilt verdict.

Nowlin also confirmed this sample, the single Guzman cell on Aman's penis, was contaminated with another person's DNA. This evidence is not consistent with the rape Guzman described unless it was someone else who raped Guzman.

The questions is how did this single cell come to be found on Aman's penis.

Nowlin testified she tested item 2-B. Tr. 713 - 714; 727 - 730. She testified the source of the semen found on the penile swab was Aman. She also admitted the other items found in 2-B

excluded Dwivedi . *Id.* In cross- examination, she admitted there were foreign alleles contained in the sample she tested. Tr. 727 - 730. She continued her testing and concluded the foreign alleles were independent from the other sample which appeared to be the source of the contamination. *Id.* Nowlin admitted the source of the foreign alleles could have come from another person, other than Guzman, Gas and Dwivedi; she admitted she was not the source and it did not come from the State lab, and admitted the DNA source was on the swab before she received. it. *Id.*

The question to be answered is “who is the source of the other DNA found on the penis sample?” This question may not be able to be answered, the greater critical question is how did it get there.

The answer lies in the evidence. In order for this single cell sample to be contaminated with another person’s DNA, the cell had to have been located somewhere else prior to the time it arrived on Aman’s penis. This sample had the DNA of three individuals. Following lab protocols, the likelihood the additional DNA was from a person at the lab is highly unlikely. Tr. 730. If Nowlin had been the source of this contamination, it could have been determined during her testing. She had her own known DNA and could have crossed check to confirm whether these eight foreign alleles were from her. The absence of any testimony by Nowlin indicating she conducted a self DNA comparison test negates any inference she was the source of the eight alleles.

The DNA samples taken from Guzman’s anal area did not establish Aman had physical contact with Guzman’s anal area. Nor did it establish that Aman had penile contact with

Guzman's anal area.

If this possibility is eliminated, the only conclusion that can be reached is the additional DNA in this sample had to have occurred prior to the sampling done by Gina Sterner. The question is how does another person's DNA come to be in the sample taken from Aman Gas' penis. It could only have occurred in one way. It was transferred there by Aman Gas.

The DNA had to have transferred from the unknown person to Aman's penis by Aman. Guzman's DNA had to have been transferred to the penis by Aman. Guzman sexual acts directed towards Aman supports the conclusion that was the method by which her DNA was transferred to Aman's penis. These acts occurred in the early evening the night before. Likewise, the fourth persons DNA had to have been transferred sometime prior to the rape which occurred between 1:30 and 2:00 A.M. in order for it be present on Aman's penis.

In addition, Guzman stated the person spit on her buttocks. She also admitted she did not wipe her buttocks off in the bathroom. Tr. 272. However, the DNA sampling did not reveal any semen or saliva on her buttocks or in her rectum. Tr. 190, 269.

The evidence does not support the jury's verdict.

3. The verdict cannot stand as the rape occurred prior to when Aman Gas left Holligan's and returned home.

The timing of the alleged assault negates a finding of guilt. Guzman's sexual partner, Dwivedi, confirmed the first contact he had from Guzman occurred between 2:00 - 2:45 A.M. Tr. 941 - 942. The un-controverted evidence established through Abdul Alshehab is that Aman Gas returned home at 3:00 A.M. Tr. 900: 23 - 25. Officer Buck interviewed Aman who told him he returned at 3:00 A.M. Tr. 355:25. Detective Marshall interviewed Aman who confirmed he

had a friend who picked him and took him home arriving at or around 3:00 A.M. Tr. 536:14 - 537:1; 556: 1 - 13. This testimony solidly establishes Aman returned to the house at 3:00 A.M. the morning of January 20, 2013. Aman Gas was not at the house at the time Guzman claims the rape/anal penetration occurred.

The State's theory claimed the attack occurred after Aman came home at 3:00 A.M. The State relied on cell phone and Facebook messages to establish the time of the attack. However, the time frame the State relies on does not support the State's theory. Guzman testified that she was raped at some time. Guzman testified she was in the bathroom for some time prior to acquiring Ogalla's cell phone, returning to the bathroom and making her first contact with Dwivedi. Her first call occurred between 2:00 and 2:30 A.M.. The attack had to have occur prior to her going to the bathroom and remaining there for sometime, obtaining the phone, returning to the bathroom and making her first call.

Guzman's testified the rape occurred between 1:30 and 2:00 A.M. Tr. 480: 8 - 9; 22- 24; 481: 14 - 23. She made this statement in a safe environment. Tr: 286:14 - 287:18. Guzman testified she was telling the truth when she told Wilcox the attack occurred at 1:30 - 2:00 A.M. *Id.* Her testimony is consistent with the testimony of Wilcox, Dwivedi and Abdul Alshabdu.

The evidence presented through Guzman, Wilcox, Harris, Officer Buck, Detective Harris, Abdul Alshehab and Dwivedi and the testimony of Aman Gas establishes the act of anal sex occurred at a time when Aman Gas was still at Holligan's. It occurred between 1:30 and 2:00 A.M. She went into the bathroom for sometime, exited the bathroom and acquired Ogalla's cell phone, returned to the bathroom and made her first call to Dwivedi prior to Aman returning

home. Guzman herself testified she only saw a dark image or figure standing over her and she first saw Aman when she grabbed her coat and shoes to leave. Tr. 267, 268, 303, 304

There were two other black males in the house between 12:30 A.M. and when Aman came home from Holligan's, Archie and Adrian Smart. Guzman confirmed the presence of Archie in Ogalla's bed. Tr. 256. They were black; had black facial hair, were of the same build and height; black hair. The living room lights were off. Tr. 263. The living room was black. No light was present.

The State's evidence along with other substantiating evidence does not support the jury's verdict. The facts establish Aman was at Hooligan's when the rape occurred. The jury could not have found Aman guilty of any crime. The jury's verdict is not supported by the evidence.

4. The accumulation of errors and other irregularities during trial denied the Defendant a fair trial.

In State v. Montoya, 140 Idaho 160, 90 910 (Ct. App. 2004), the court addressed the doctrine of cumulative errors." An accumulation of irregularities each of which in itself might be harmless, may in the aggregate, show the absence of a fair trial. (Citations omitted). A defendant is entitled to a fair trial, but not a perfect trial." *Id.*, see also State v. Enno, 119 Idaho 392, 807 P.2d 610 (1991).

Defendant asserts in addition to the errors identified herein, and a thorough review of the record and the court's evidentiary rulings, the majority of which favored the State and prejudiced the Defendant, resulted in an aggregation of errors denying the Defendant a fair trial.

CONCLUSION PART I

Based upon the forgoing arguments and facts, the motion to set aside the verdict and motion for new trial must be granted. The court's numerous errors and the lack of evidence establishes the jury reached a verdict unsupported by the facts and the law. DNA evidence was presented to jury without support in the law. The jury was mislead as a result of the court's erroneous inclusion of the Battery with Intent to Commit Rape jury instruction and the failure to instruct on misdemeanor battery even though it is not supported in the law. The Battery with Intent to Commit Rape instruction mislead the jury. The rape occurred between 1:30 and 2:00 A.M. The evidence establishes Aman was at Holligan's when the rape occurred.

Defendant, Aman Gas, respectfully requests the court to grant the Motion to Set Aside the Verdict and Motion for New Trial.

Part II: Bias of the Court.

The Idaho Supreme Court has outlined the standards for determining whether there was judicial bias. "A judge may be disqualified for cause where it is shown "the judge ... is biased or prejudiced for or against any party or the case in the action." State v. Dunlap, 155 Idaho 345, 313 P. 3d 1 (2012), rhrng. den.; I.R.C.P. 40(d)(2)(A)(4). The court continued, "[A] judge may not be disqualified for prejudice unless it is shown that the prejudice is directed against the party and is of such nature and character as would render it improbable" that the party would receive a fair and impartial trial". See Pizzuto v. State, 134 Idaho 793, 799, 10 P.3d 742, 748 (2000); State v. Saunders, 124 Idaho 334, 859 P. 2d 370(Ct. App. 1993). Generally, a motion to disqualify a judge for prejudice requires a timely motion.

The question that arises is whether the issue of judicial bias and disqualification are

barred because of a lack of objection. Judicial disqualification is permitted when a party has moved for disqualification or when there is fundamental error in the absence of a motion. The record confirms Defendant has moved for disqualification. The question that arises is whether a post-trial motion for disqualification renders the motion moot. It does not.

The Idaho supreme Court has delineated the standard for disqualification for cause based on judicial bias.

We hold that in case of unobjected to fundamental error: (1) the Defendant must demonstrate that one of more of the defendant's unwaived constitutional rights were violated; (2) the error must be clear or obvious, without the need for any additional information not contained in the appellate record, including information as to whether the failure to object was a tactical decision; and (3) the defendant must demonstrate that the error affected the defendant's substantial rights, meaning (in most instances) that it must have affected the outcome of the proceedings. State v. Perry, 150 Idaho 209, 245 P. 3d 961 (2010).

Bias can be established if the record shows "the prejudice is directed against the party and is of such nature and character as would render it improbable that the party would receive a fair and impartial trial." State v. Dunlap, 155 Idaho 345, 313 P. 3d 1 (2012), rhrng. den.; I.R.C.P. 40(d)(2)(A)(4). This standard applies to post-trial motions in determining if during the trial judicial bias occurred rendering the trial and any verdict invalid. The record supports a finding of judicial bias.

In addition to the arguments set forth hereafter, Defendant adopts and asserts the arguments set forth in Part I to substantiate its claim the court was biased against the Defendant or defense counsel.

During her testimony, Wilcox testified to photographs she had taken of Ms. Guzman's rectum depicting anal tears. The admission of the photographs had been objected to prior to trial.

Tr. 441: 15 - 20; *See also* Second Motion in Limine. The court's ruling allowing the State to introduce any photos, when the issue of penetration was not contested was in error. The admission of the additional photos lead to introduction of highly inflammatory prejudicial photos which impaired and prejudiced Aman Gas' right to a fair trial. The adverse decision is evidence of the court's bias toward the defendant or defense counsel.

The court made inconsistent rulings regarding the inclusion or exclusion of potential jurors who had bias favorable to the State. Although defense counsel did not object to all of the included jurors, it was fundamental error to keep the jurors who were biased against the Defendant. *See* Part I, A. The court's inconsistent rulings weighted the jury in favor of the State and is evidence of bias denying the Defendant a fair trial.

The court erred in denying Defendant's Batson challenge. The evidence clearly establishes the State exercised its peremptory challenges based upon gender in an attempt to pack the jury with females who would be favorable to the State, empathetic to Guzman and hostile toward Aman. The decision to deny the challenge was the result of bias toward the Defendant and/or defense counsel.

The court's denial of the motion to exclude the State's DNA witnesses, even when the State had not complied with Rule 16. I.C.R., was prejudicial to the Defendant. The record confirms the trial court was trying to insure that the most potentially damaging evidence went to the jury. Rule 16 is mandatory. Bias is shown by the court's decision to permit these witnesses to testify.

The court's inconsistent rulings on the expert witness challenges are further evidence the

court's decision was based upon a bias in favor of the State and against the defendant. The court consistently applied different standards to allow the State to call the DNA witnesses though they were never disclosed as expert witnesses, had been disclosed as fact witnesses is further evidence the court was biased against the Defendant.

The court's inclusion of the Battery with Intent to Commit Rape instruction was erroneous and not supported by the law. It is only permissible if the allegation is forcible rape. This instruction mislead the jury. As argued in Part I, the inclusion of this instruction tacitly instructed the jury to find the Defendant guilty of a crime irrespective of whether the evidence supported a verdict of guilty or not guilty. The erroneous inclusion of this instruction, and the failure to instruct on the lesser included offense of misdemeanor battery was the result of bias against either the Defendant or defense counsel.

The court's error in overruling Defendant's objection to the State's DNA witnesses although compliance with Rule 16 is mandatory was inconsistent with other district court's rulings on this same issue. The trial court's sister court under almost identical circumstances, ruled that compliance was mandatory. Yet, in this case, the Rule 16 disclosure requirement was not mandatory. This court's ruling adversely impacted the Defendant. The same is true regarding the issue of defense counsel notice. Different application of Rule 16, where both rulings were adverse to the defendant and favorable to the State is another indicator of the court's bias.

The court refused to hear argument on the issue of the State's long term practice of noncompliance with Rule 16. Second Affidavit. The record clearly establishes the State was on

notice of the purposeful non-disclosure issue. The State, prior to trial re-wrote Defendant's Discovery Motion and then answered its re-written version. Even after this trial, the State has continued this practice. It was not a clerical mistake or oversight. It was, and is, purposeful conduct on the part of the State to avoid compliance with Rule 16(b)(7) I.C.R. Refusing to hear argument on this issue was error and indicative of the court's bias against defense counsel.

The trial record is replete with examples of the court's bias against either the Defendant or defense counsel. The yelling tirade of the court when defense counsel moved to exclude Ms. Wilcox's testimony because the State had not complied with Rule 16 is another example of the court's bias against defense counsel.

PART II CONCLUSION

Defendant asserts the arguments presented in Part I along with the particular arguments set forth in Part II, clearly establish the court's bias against the Defendant and defense counsel. The court's erroneous rulings and repeated antagonistic behavior directed at defense counsel establishes the court's bias and directly impacted the trial and denied Aman Gas his right to a fair trial.

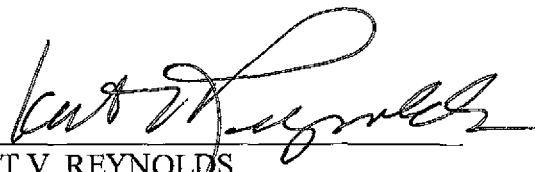
RELIEF REQUESTED

Defendant requests the court to grant the motion to disqualify for cause and for the appointment of another district judge to preside over the Motion to Set Aside Verdict and Motion for New Trial and any future proceedings.

If the court denies the Motion to Disqualify, Defendant requests the court to set aside the

verdict and grant the Motion for a New Trial.

DATED this 13 day of August, 2014.

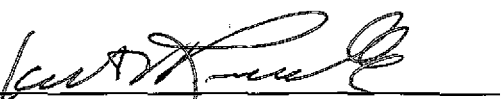

KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 13 day of August, 2014, I served a true and correct copy of the **BRIEF IN SUPPORT OF MOTION TO SET ASIDE VERDICT; MOTION FOR NEW TRIAL AND MOTION FOR DISQUALIFICATION** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile


KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 AUG 13 PM 4:14

BY KJR
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

v.

AMAN GAS,

Defendant,

)
) CASE NO. CR-2013-864-FE-A
)
)
) FIRST AFFIDAVIT OF
) KENT V. REYNOLDS IN SUPPORT
) OF MOTION TO SET ASIDE
) VERDICT AND MOTION FOR
) NEW TRIAL; AMENDED MOTION
) TO SET ASIDE VERDICT AND
) AMENDED MOTION FOR NEW
) TRIAL; MOTION TO
) DISQUALIFY AND AMENDED
) MOTION TO DISQUALIFY
)
)
)

STATE OF IDAHO }

:ss

COUNTY OF BANNOCK }

KENT V. REYNOLDS, having been sworn upon his oath, deposes and says that:


1. That I am an attorney of record for the Defendant Aman Gas, and make this affidavit of my personal knowledge and belief.

First Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict and Motion for New Trial; Amended Motion to Set Aside Verdict and Motion for New Trial; Motion to Disqualify and Amended Motion to Disqualify

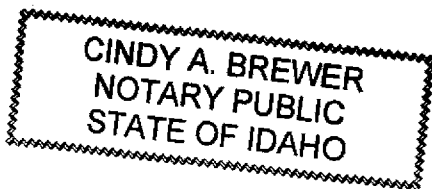
Page 1


2. Attached hereto and incorporated herein by reference are the following materials:
- A. Exhibit "A": Summary of State's Responses to Defendant's discovery motions.
 - B. State's Response to Defendant's Discovery Motion with disks, Ogalla, Gas, and Evidence
 - C. States First Supplemental Response to Discovery with attachments
 - D. State's Second Supplemental Response to
 - E. State's Response to Third Request for Discovery with DVD
 - F. State's Third Supplemental Response to Discovery with Transport DVD

DATED this 13 day of August, 2014.


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

SUBSCRIBED AND SWORN before me this 13 day of August, 2014.



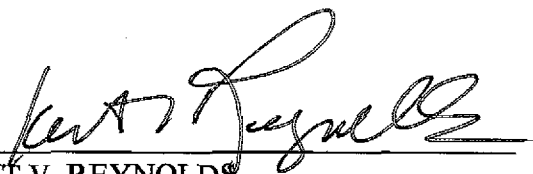

NOTARY PUBLIC FOR IDAHO
Residing at Pocatello
My Commission Expires: 5/10/2016

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 13 day of August, 2014, I served a true and correct copy of the **FIRST AFFIDAVIT OF KENT V. REYNOLDS IN SUPPORT OF MOTION TO SET ASIDE VERDICT AND MOTION FOR NEW TRIAL; AMENDED MOTION TO SET ASIDE VERDICT AND AMENDED MOTION FOR NEW TRIAL; MOTION TO DISQUALIFY AND AMENDED MOTION TO DISQUALIFY** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Deputy Public Defender

Exhibit "A"

Attachments to State's Responses

Title

Approximate Filing Date

Content

PART I: THE FOLLOWING RESPONSES (HIGHLIGHTED IN YELLOW) ARE PRODUCED WITH THE ATTACHMENTS AND DISKS		
Response to Request for Discovery	February 13, 2013	Response including Evidence DVD, Ogalla Interview DVD, Gas Interview DVD. Response 2g identifies the State's fact witnesses. Responses 2h and 2i do not correlate with Defendant's Discovery Motion. The State knowingly altered Defendant's Discovery Motion and responding to their alterations; it did not respond to Defendant's requests as identified. The Evidence DVD included the items identified in response 2d and 2e which included the medical records of Raushelle Guzman and Aman Gas. See attachments.
First Supplemental Response to Discovery Request	June 14, 2013	Response 2e supplemented to include items identified including lab report dated May 2, 2013; Response 2g: fact witness disclosure supplemented to include Jamie Femreite, ISP Forensic Lab; 2h response supplemented; response 2i supplemented.
Second Supplemental Response to Discovery Request	September 6, 2013	2d supplemented with additional lab result sent to defense counsel by email and dated August 27, 2013; 2g fact witness disclosure supplemented to include Rylene Nowlin. THE REPORT WAS SENT BY EMAIL AND NOT ATTACHED TO THE RESPONSE.

Third Supplemental Response to Discovery Request	April 16, 2014	Transport DVD.
Response to Third Discovery Request	October 29, 2013	Response with Lab Evidence Disk
PART II: THE FOLLOWING RESPONSES (HIGHLIGHTED IN BLUE) ARE NOT PRODUCED. THE RESPONSES ARE IN THE COURT FILE. THE RESPONSES DO NOT HAVE ATTACHMENTS		
Response to Second Discovery Motion	March 11, 2013	
<u>Second</u> Response to Second Discovery Motion	September 24, 2013	
Response to Fourth Discovery Request	April 9, 2014	
Response to Fifth Discovery Request	March 31, 2014	
Response to Sixth Discovery Request	April 11, 2014	
Response to Sixth Discovery Motion, Supplemental	May 6, 2014	
Response to Seventh Discovery Request	May 15, 2014	
Response to Eighth Discovery Request	May 8, 2014	
Response to Ninth Discovery Request	May 8, 2014	

2253

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-13-864-FE
Plaintiff,)	
	)	RESPONSE TO REQUEST
vs.	)	FOR DISCOVERY
)	
AMAN FARAH GAS,)	
)	
Defendant.)	

2013-02-15

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,

Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to

Defendant's Request for Discovery as follows:

REQUEST NO. 1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/ or others who have First Discovery Motion participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1a & b: None known at this time.

REQUEST NO.2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

REQUEST NO. 2a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: For statements made by the defendant, please refer to Pocatello Police Department police report, LI#13-P01084 located on the Evidence Disc and defendant's recorded interviews two on the Evidence Disc and one on a DVD which are attached hereto and incorporated by reference.

REQUEST NO. 2b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There are no known co-defendants.

REQUEST NO. 2c. Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: The defendant's criminal history located on the Evidence CD attached hereto and incorporated by reference.

REQUEST NO. 2d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at the Preliminary Hearing and/or trial, or obtained from the Defendant.

RESPONSE NO 2d: Evidence which may be introduced at trial is as follows: interviews of Gas and Ogolla on DVDs and ...

911 call	gas hipaa form	officer browns notes
2013-01-23 REPORT 13-P01084	gas medical records	officer notes
130120_001 Ofc Buck w Gas	Goodin Guzman Hyde St	Ogolla
130120_002 Ofc Buck w Gas	Goodin Guzman PMC 1	Picture 001
adult rights form	Goodin Guzman PMC 2 and Dwivedi PMC	Picture 002
consent to search	Goodin Guzman PMC 3	Picture 086
criminal complaint	guzman hipaa form	Picture 087
discharge instructions	guzman medical records	Picture 088
Gas Criminal History	interview notes	sketch

REQUEST NO. 2e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting First Discovery Motion Attorney as access, or are intended for use by the Prosecuting Attorney as evidence at the Preliminary Hearing and/or at trial, or obtained from the Defendant. J.

RESPONSE NO 2e: The following books, papers, documents, photographs, tangible objects, buildings or places are either attached hereto and incorporated by reference: interviews of Gas and Ogolla on DVDs and ...

911 call	gas hipaa form	officer browns notes
2013-01-23 REPORT 13-P01084	gas medical records	officer notes
130120_001 Ofc Buck w Gas	Goodin Guzman Hyde St	Ogolla
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criminal complaint	guzman hipaa form	Picture 087
discharge instructions	guzman medical records	Picture 088
Gas Criminal History	interview notes	sketch

REQUEST NO. 2f Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO 2f: For physical/mental examinations, scientific tests or experiments pertaining to this matter, please see previous responses.

REQUEST NO. 2g. Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the Preliminary Hearing and/or trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following persons may be called to testify at hearing or trial in this matter:

- Raushelle Goodin Guzman, 145 Hillcrest #38, Af, 269-0498 Msg
- Andrea Ogolla, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854
- Monique Hamblin, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854
- Richard Sammons, 3132 Neeley, Af, 269-0498
- Abhishek Dwivedi, 1222 Freeman Ln #139, Pocatello, 240-7736
- Ann Wilcox RN, PMC
- Curtis Sandy MD, PMC
- Gina Sterner RN, PMC
- Tracy Marshall, PPD
- William Brown, PPD
- Matthew Shutes, PPD
- Tarl Lambson, PPD
- Justin Buck, PPD
- Jeffrey Eldridge, PPD

At the present time, to the best knowledge of the plaintiff, only the aforementioned individuals with an "*" before their name have a record of felony convictions which are attached hereto and incorporated by reference.

REQUEST NO. 2h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO 2h: For statements made by witnesses, please see Pocatello Police Department police report, LI#13-P01084, attached hereto and incorporated by reference.

REQUEST NO. 2i. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

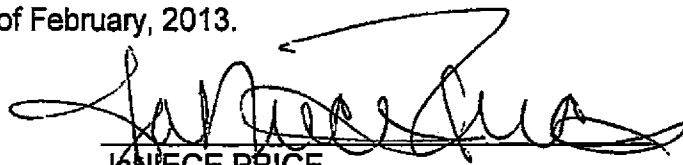
RESPONSE NO 2i: For reports and memorandum made by a police officer or investigator, please see Pocatello Police Department police report, LI#13-P01084 and officer notes located on the Evidence Disc attached hereto and incorporated by reference.

REQUEST NO. 2j. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: For intercepted jail conversations, please contact the Bannock County Jail.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 13th day of February, 2013.

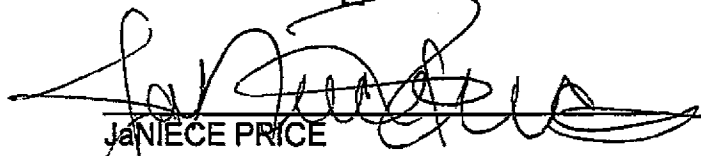

JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 13th day of February, 2013, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile


JANIECE PRICE

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-13-864-FE
Plaintiff,)	
	)	FIRST SUPPLEMENTAL
vs.	)	RESPONSE TO
	)	DISCOVERY REQUEST
AMAN FARAH GAS,)	
)	
Defendant.)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Request for Discovery as follows:

REQUEST NO. 1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/ or others who have First Discovery Motion participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1a & b: None known at this time.

REQUEST NO.2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

REQUEST NO. 2a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: For statements made by the defendant, please refer to Pocatello Police Department police report, LI#13-P01084 located on the Evidence Disc and defendant's recorded interviews two on the Evidence Disc and one on a DVD which are attached hereto and incorporated by reference.

06/14/13 -- ADDITIONAL: Also see Pocatello Police Department supplement to Offense Report #13-P01084 by T. Marshall attached hereto and incorporated by reference

REQUEST NO. 2b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There are no known co-defendants.

REQUEST NO. 2c. Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: The defendant's criminal history located on the Evidence CD attached hereto and incorporated by reference.

REQUEST NO. 2d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at the Preliminary Hearing and/or trial, or obtained from the Defendant.

RESPONSE NO 2d: Evidence which may be introduced at trial is as follows: interviews of Gas and Ogolla on DVDs and ...

911 call	gas hipaa form	officer browns notes
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Gas Criminal History	interview notes	sketch

06/14/2013 -- ADDITIONAL

- 2013-05-10 Lab Results
- 2013-05-31 Emails Prosecutor's office with Forensic Lab
- 2013-06-03 13-P01084 Marshall Supplement
- 2013-06-12 T. Marshall email re DNA on consensual partner
- fb messages
- phone call history

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▲ 130120_001 Ofc Buck w Gas	▲ Goodin Guzman Hyde St	▲ Ogolla
▲ 130120_002 Ofc Buck w Gas	▲ Goodin Guzman PMC 1	📎 Picture 001
📎 adult rights form	▲ Goodin Guzman PMC 2 and Dwivedi PMC	📎 Picture 002
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📎 discharge instructions	📎 guzman medical records	📎 Picture 088
📎 Gas Criminal History	📎 interview notes	📎 sketch

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📎 phone call history

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- William Brown, PPD
- Matthew Shutes, PPD
- Tarl Lambson, PPD
- Justin Buck, PPD
- Jeffrey Eldridge, PPD

06/14/2013 -- ADDITIONAL

- Jamie Femrelte, ISP Forensic Lab - Meridian

At the present time, to the best knowledge of the plaintiff, only the aforementioned individuals with an "*" before their name have a record of felony convictions which are attached hereto and incorporated by reference.

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RESPONSE NO 2j: For intercepted jail conversations, please contact the Bannock County Jail.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 14th day of June, 2013,

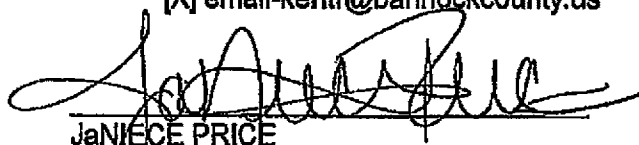

JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 14th day of June, 2013, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☐ hand delivery
☒ email-kentr@bannockcounty.us


JANIECE PRICE

IDAHO STATE POLICE
FORENSIC SERVICES
Headquarters Laboratory
700 South Stratford Drive, Suite 125
Meridian, Idaho 83642-6202
Telephone: (208) 884-7170
Fax: (208) 884-7197



FORENSIC BIOLOGY REPORT

Case Agency: Pocatello Police Department	Agency Case No.: 13-P01084	Laboratory Case No.: M20130247
Suspect(s): Aman Gas	Date of Offense: January 20, 2013	Report Date: May 2, 2013
Victim(s): Raushelle Goodin-Guzman	Investigating Officer: Tracy Marshall	Analyst: Jamie L. Femreite

Results and Interpretations

Chemical analyses for the detection of semen were conducted on the following items: "vulva/vaginal" (Item 1B), rectal (Item 1C), anal (Item 1D), "anal - buttocks" (Item 1E), oral (Item 1F), and "L upper abd & under L breast - fluorescence" (Item 1G) swabs. Microscopic analysis was conducted on one each of the above listed swabs. Additionally, serological analysis for the detection of semen was performed on an anal swab (Item 1D). Semen was confirmed by a limited number of spermatozoa on the "vulva/vaginal" swab (Item 1B), by two spermatozoa on the "anal - buttocks" swab (Item 1E), and by a single spermatozoon on the rectal swab (Item 1C), all of which may be insufficient for further testing at this time. Semen was not detected on the other items listed above.

Results from presumptive chemical tests performed on an under fingernails (Item 2E) swab indicated the presence of an elevated level of amylase, an enzymatic component of saliva. Results from chemical tests performed on a "L upper abd & under L breast - fluorescence" (Item 1G) swab did not indicate the presence of amylase.

Microscopic examination of the "pubic hair from anal area" (Item 1H) did not detect the presence of a sufficient root for nuclear DNA analysis.

The sexual assault evidence collection kit, said to have been collected from Aman Gas (Item 2), was examined for the purpose of preparing known bloodstains; the other kit contents, with the exception of the under fingernails swabs (Item 2E), were not examined.

Additionally, the known head hairs (Item 1I) were not examined.

DNA testing may be attempted upon request and submission of a known reference sample from Raushelle Goodin-Guzman's consensual partner. Please contact the laboratory regarding the analysis request.

Disposition of Evidence

The following items have been retained in the laboratory: "vulva/vaginal" (Item 1B), rectal (Item 1C), "anal – buttocks" (Item 1E), penile (Item 2B), and under fingernails (Item 2E) swabs, as well as bloodstains prepared from known blood samples of Raushelle Goodin-Guzman (Item 1A) and Aman Gas (Item 2A). All remaining items have been returned to the main laboratory evidence vault for return to the submitting agency.

Evidence Description

The following items were received in the laboratory via UPS on January 25, 2013:

- Item 1 A tape-sealed sexual assault evidence collection kit containing biological samples, said to have been collected from Raushelle Goodin-Guzman.
- Item 2 A tape-sealed sexual assault evidence collection kit containing biological samples, said to have been collected from Aman Gas.

This report contains opinions and/or interpretations of the undersigned analyst based on scientific data. The analyst's signature certifies that all of the above are true and accurate.

Jamie L. Femreite
Forensic Scientist I

Idaho State Police, Forensic Services Evidence Submission/Receipt Form



Lab Use Only	Laboratory Case Number: <u>M20130247</u>		
Date Received: <u>1/25/13</u>	By: <u>Mich H. O</u>		
Received in person <input type="checkbox"/> or via: <u>URS</u>	Phone #:		
Forwarded to:	By:	Date:	
Received from:	By:	Date:	
Lab Use Only When Returning Evidence			
Idaho State Police:		Date:	
Agency Representative:		Date:	

Submitting Agency (Do not abbreviate) Pocatello Police Department		Date of Offense 01-20-13	Agency Case Number 13-P01084
County of Offense Bannock County		Charge Rape 18-6101	Court Date 01-22-13
Suspect <input type="checkbox"/>	Goodin- Guzman, Raushelle		
Victim <input checked="" type="checkbox"/>			
Subject <input type="checkbox"/>	Name Last, First	DOB	State ID # (fingerprints only)
Suspect <input checked="" type="checkbox"/>	Gas, Amari		
Victim <input type="checkbox"/>			
Subject <input type="checkbox"/>	Name Last, First	DOB	State ID # (fingerprints only)
Suspect <input type="checkbox"/>			
Victim <input type="checkbox"/>			
Subject <input type="checkbox"/>	Name Last, First	DOB	State ID # (fingerprints only)
Suspect <input type="checkbox"/>			
Victim <input type="checkbox"/>			
Subject <input type="checkbox"/>	Name Last, First	DOB	State ID # (fingerprints only)
Status of Case (Mark one) New <input checked="" type="checkbox"/> Additional <input type="checkbox"/> Resubmittal <input type="checkbox"/>			
Investigating Officer Det. Tracy Marshall		Phone number 208-234-6121 or 208-705-6496	
Agency Exhibit Number	Exhibit Description	Location Found	Type of Exam Requested (see below)
P147079	Sex Crime Kit	Goodin-Guzman	Bio
P147080	Sex Crime Kit	Gas	Bio

Type of exam: Biology (Bio), Controlled Substances (CS) or Fire Debris (FD), Firearms/Toolmarks (F/T), Fingerprints (FP), or Shoeprint/tiretracks (S/T).

Toxicology and blood alcohol sample must use toxicology submittal form.

Agency representative: Submitting this form indicates agreement to ISP Forensic Services' terms and conditions, for analyzing this evidence as described at our web site: <http://www.isp.state.id.us/forensic/index.html>

Jeanne Hobson

From: Femreite, Jamie [jamie.femreite@isp.idaho.gov]
Sent: Friday, May 31, 2013 03:30 PM
To: Jeanne Hobson
Subject: RE: Lab Case No. M20130247 - State v. Aman Gas

Jeanne,

Yes, it is necessary to have the consensual partner's DNA to complete testing because if a 'foreign' profile is developed from the evidence (i.e. not belonging to the suspect or victim) it is uploaded to the CODIS national DNA database, so it is completely necessary to rule out all participants from the profile, otherwise those participants' profiles could end up in an offender database unknowingly. Plus, it is part of our lab testing policy that we don't perform DNA analysis until all references are acquired.

Jamie Femreite

Forensic Scientist I
700 S. Stratford Dr. Suite 125
Meridian, ID 83642
208.884.7175

CONFIDENTIALITY NOTICE: This e-mail is intended only for the personal and confidential use of the individual(s) named as recipients (or the employee or agent responsible to deliver it to the intended recipient) and is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521. It may contain information that is privileged, confidential and/or protected from disclosure under applicable law including, but not limited to, the attorney client privilege and/or work product doctrine. If you are not the intended recipient of this transmission, please notify the sender immediately by telephone. Do not deliver, distribute or copy this transmission, disclose its contents or take any action in reliance on the information it contains.

From: Jeanne Hobson [mailto:jeanneh@bannockcounty.us]
Sent: Friday, May 31, 2013 1:40 PM
To: Femreite, Jamie
Subject: RE: Lab Case No. M20130247 - State v. Aman Gas

Jamie,

Thanks for the response. More questions come to light...

It is necessary to have the consensual partner's DNA to complete testing?
Can the just the defendant's collection be tested against the victim's collection for DNA matches?

Sincerely,

Jeanne

Office Coordinator/Lead Legal Secretary
Bannock County Prosecutor's Office

P O Box "P"
Pocatello, ID 83205-0050
208-236-7280 - Main
208-236-7283 - Desk
208-236-7288 - Fax

From: Femrelte, Jamie [mailto:jamie.femrelte@isp.idaho.gov]
Sent: Friday, May 31, 2013 1:20 PM
To: Jeanne Hobson
Subject: RE: Lab Case No. M20130247 - State v. Aman Gas

Jeanne,

The short answer to your question is I don't know if the semen is a match to the defendant because the DNA analysis portion of the lab testing has not been performed yet. Per my report (in the last paragraph of the Results and Interpretations section) we need to have a reference sample sent to the lab from Ms. Goodin-Guzmin's consensual partner (to rule him out) before any DNA analysis can begin. The timeframe for DNA analysis is about 60 days, but cases can be prioritized for court dates.

When we receive sexual assault kits there is an initial "screening" process that happens before any DNA testing is initiated. The purpose of this "screening" is to identify possible bodily fluids that contain DNA (blood, semen, saliva) that are candidates for DNA analysis. If bodily fluids aren't detected in this initial "screening" phase, then typically the evidence is not a candidate for DNA analysis. In this case, Items 1B, 1C, and 1E were found to contain sperm (a component of semen) although, at very low levels which we cannot guarantee a full DNA profile will be generated from.

The defendant allegedly stuck his fingers in Ms. Goodin-Guzmin's mouth during the assault, so I tested for the presence of saliva on the under fingernails swabs provided in his kit; saliva was indicated on this item (Item 2E). ***DNA testing can be performed on this item as well to see if her DNA is found on his under fingernails swabs.

HOWEVER DNA TESTING HAS NOT YET BEEN PERFORMED BECAUSE WE ARE WAITING ON A REFERENCE SAMPLE FROM MS. GOODIN-GUZMIN'S CONSENSUAL PARTNER. THIS MUST BE SUBMITTED TO THE LABORATORY BEFORE ANY DNA TESTING COMMENCES

Please let me know if you have additional questions regarding my forensic biology report for this case.

Jamie Femrelte

Forensic Scientist I
700 S. Stratford Dr. Suite 125
Meridian, ID 83642
208.884.7175

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From: Jeanne Hobson [mailto:jeanneh@bannockcounty.us]
Sent: Friday, May 31, 2013 11:35 AM
To: Femrelte, Jamle
Subject: Lab Case No. M20130247 - State v. Aman Gas

Hi Jamle,

We received your Forensic Biology Report and need clarification.
Are the semen located on Items 1B, 1E & 1C a match to the defendant's sex crime kit?
The information is not clear to the prosecutor in this case.

Sincerely,

Jeanne

Office Coordinator/Lead Legal Secretary
Bannock County Prosecutor's Office
P O Box "P"
Pocatello, ID 83205-0050
208-236-7280 - Main
208-236-7283 - Desk
208-236-7288 - Fax

Jeanne Hobson

From: Marshall, Tracy (trmarshall@pocatello.us)
Sent: Wednesday, June 12, 2013 03:17 PM
To: Jeanne Hobson
Subject: RE: Lab Case No. M20130247 - State v. Aman Gas

This has been completed and the swab was sent off to the State Lab. Let me know if you need anything further.

*Detective Tracy Marshall #5203
Pocatello Police Department*



From: Jeanne Hobson [mailto:jeanneh@bannockcounty.us]
Sent: Friday, May 31, 2013 13:31
To: Marshall, Tracy
Subject: FW: Lab Case No. M20130247 - State v. Aman Gas

Hi Tracy,

Per the below info, please see if you can get a volunteer swab from the victim's consensual partner to be sent to the lab for DNA comparison testing in this matter.

Sincerely,

Jeanne

Office Coordinator/Lead Legal Secretary
Bannock County Prosecutor's Office
P O Box "P"
Pocatello, ID 83205-0050
208-236-7280 - Main
208-236-7283 - Desk
208-236-7288 - Fax

OFFICER: MARSHALL #5203

Mon Jun 03 16:18:27 MDT 2013

INVESTIGATIVE TIME: 1.5 HOURS

On 06-03-13, I received an e-mail request from the Bannock County Prosecutors Office to attempt to contact ABHISHEK DWIVEDI to obtain a buccal swab. I responded to the DWIVEDI's residence and was not able to locate him home. I then responded to Virginia Transformer where DWIVEDI is employed. I was able to make contact with him and requested that he submit to a buccal swab. He gave me a verbal consent to complete the swab.

I completed a swab of the interior of DWIVEDI's mouth while using some nitrile examination gloves to cover my hands. The box that I pulled the gloves out of was new and I was careful about only handling the gloves near the bottom. The swabs were then secured inside a box used to contain swabs and then sealed it. I then placed the buccal swabs into evidence to be sent to the state lab for processing.

It should also be noted that ANDREA OGOLLA e-mailed me twelve pages of screen shots from her cell phone of the call of the night where the assault occurred as well as a Facebook conversation she had with RAUSHELLE GOODIN-GUZMAN. This was turned into records to be scanned into this report.

No further action taken at this time.

End of report.



Hey anyone I need a ride and I really need a ride now please help me

Like

Comment



Replied to [Name] - Comment

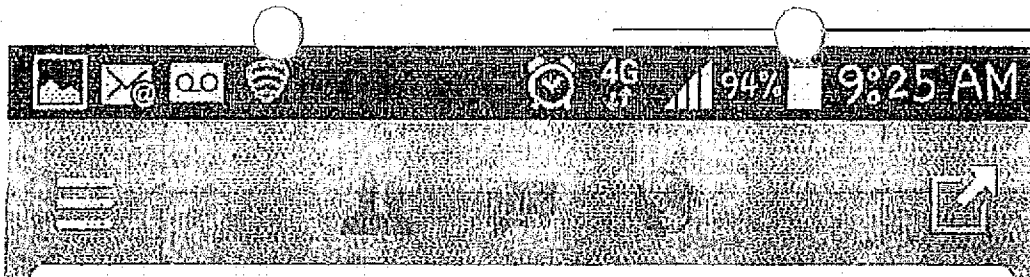
well folks catch ya on the darkside... i promise to be have if the media tells the truth lmao... guess that gives me some free play lol. night



Replied to [Name] - Comment
Shared Facebook photo

i really want lol

13-7084



Molly Marie Steinmetz likes this.



Jason Tokarz

Huh your getting laid by Bob
NICE!!!! Lmao

Like



Jason Tokarz

Ok acre you
and I for not responding
at all lol

Like



Raushelle Goodin-Guzman

I am nor getting laid by anyone I'm just
drinking hard

Like



Jason Tokarz

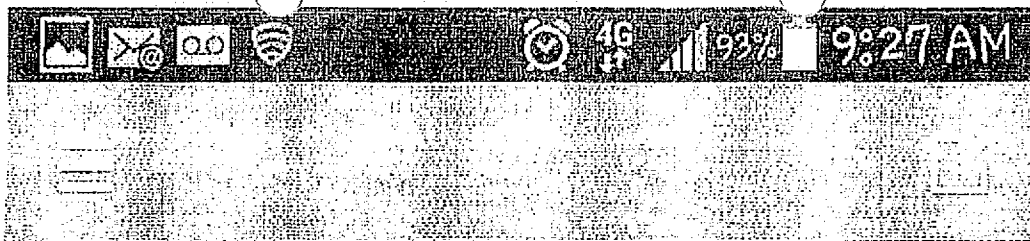
So then your having fun with bob I take
it lmao

Like

Sat at 1:42pm

i really want lol

13-11084



Write Post Add Story Photo



news a Co. man

I JUST WANT TO GO HOME PLEASE
ANYONE

Like Comment



news a Co. man

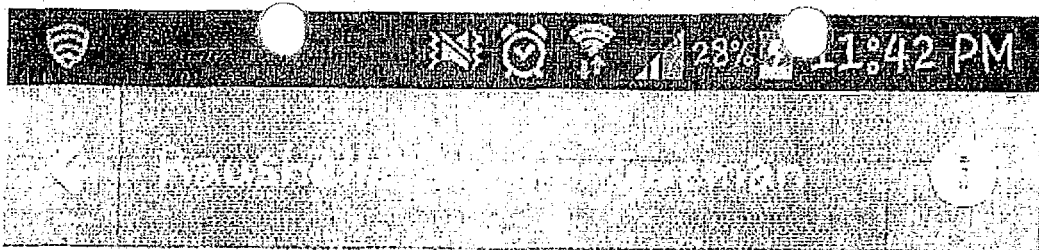
Hey anyone I need a ride and I really
need a ride now please help me

Like Comment



news a Co. man

13-P1084



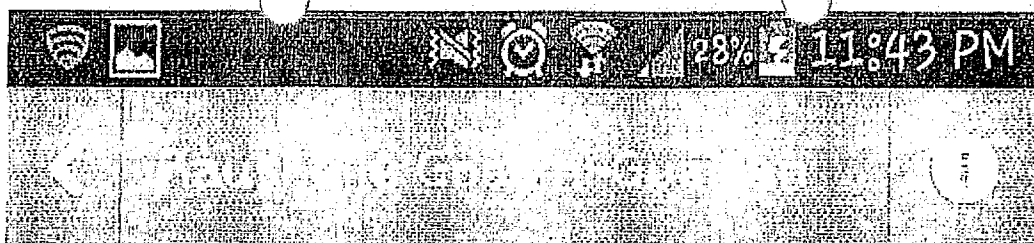
What happened

Shell. Please tell me what
the eff is going on. I'm
freaking out right now.
Seriously



Im sorry. I dont know if I
am allowed to talk to you
yet. I will tell you what I
remember. I remember
waiting for you to get
ready you changes pants...
the Iremember nothing. I
woke up to my ass being
fingured i flung my left
arm thinking i was
dreaming... what made me
realize i was dreaming
when he stuck his dick all
the way in... i said no i

13-PO1084



have to go to the bathroom
when i looked into the
toilet i was bleeding. you
had to go to the bathroom
when you where there i
turned your light on and
grabbed your phone. i
facebooked for a ride and
help i couldbnt think i just
wanted to leave i found
aadis number told him to
come get me i told my dad
what happened i grabbed
my shoes and jacket and
started walking. aadi got
there first then my dad my
dad called the police i
stayed at the hospital for
four hours i have three
tares one goes all the way
in my ass i had to get shots
and pills and blood. they
took all my clothes. i was

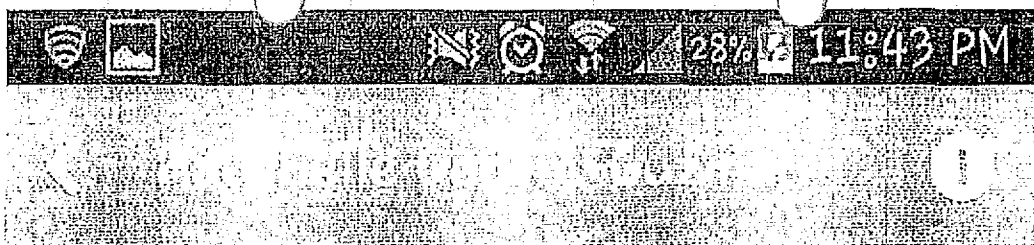
BP01084



dad called the police i
stayed at the hospital for
four hours i have three
tares one goes all the way
in my ass i had to get shots
and pills and blood. they
took all my clothes. i was
scared confused and in pain
i hate anal and know i
wouldnt let walter put it
there. im still freaked and
confused cause i cant
remember from you
changing your pants to me
waking up to that fucking
creep.

Well I remember alot. But
sometimes alcohol and drugs
can change a persons
mindset of how things
happen. I don't think
anything was intentional

13-P01084



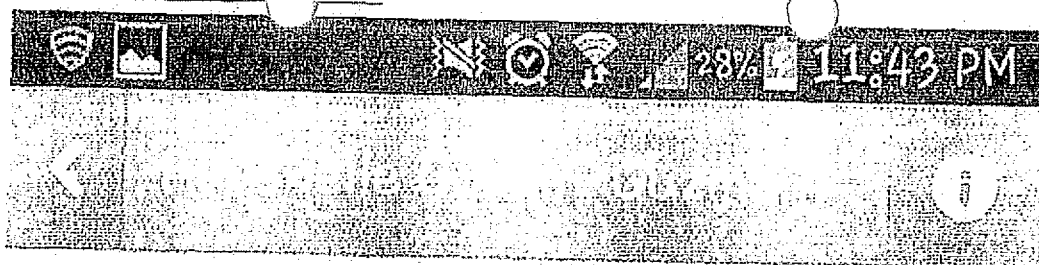
changing your pants to me
waking up to that fucking
creep.

Well I remember alot. But
sometimes alcohol and drugs
can change a persons
mindset of how things
happen. I don't think
anything was intentional.
And why didn't you scream
for one of us? I'm so
confused as to why you
didn't ask or tell us
anything. I'm not agreeing
with either side, but we
were all pretty tore up. And
a lot could have happened



idk i cant remember but i
know i was asleep. the only
thing i kept think was go

13-P01084



sometimes alcohol and drugs
can change a persons
mindset of how things
happen. I don't think
anything was intentional.
And why didn't you scream
for one of us? I'm so
confused as to why you
didn't ask or tell us
anything. I'm not agreeing
with either side, but we
were all pretty tore up. And
a lot could have happened



idk i cant remember but i
know i was asleep. the only
thing i kept think was go
home i just wanted to go
home the nurse said it was
shock i couldnt barly talk all
i did was cry... idk why
thats all that i could do i

13-701084

home the nurse said it was
shock i couldnt barly talk all
i did was cry... idk why
thats all that i could do i
fully admitted to being
wasted idk why i just left
instead of saying
something. i just shut
down

I know a lot happened that
could have led up to what
may or may not have
occured.

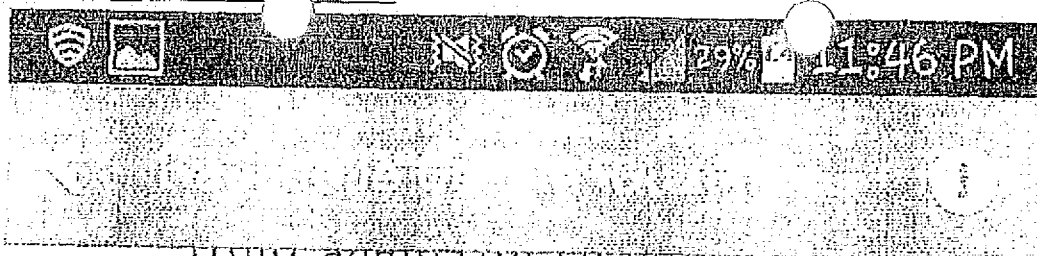


well i wish i could i know i
had a lot to drink. i know
though too no one ever
wants to wake from sleep
to that



i really dont think we

13-P01084



I'm admitted to being
wasted idk why i just deft
instead of saying
something. i just shut
down

I know a lot happened that
could have led up to what
may or may not have
occured.



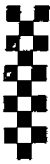
well i wish i could i know i
had a lot to drink. i know
though too no one ever
wants to wake from sleep
to that



i really dont think we
should talk anymore untill
the detectives says its ok.

Ok

13 P0084



STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN FARAH GAS,

Defendant.

CASE NO. CR-13-864-FE

**SECOND SUPPLEMENTAL
RESPONSE TO
DISCOVERY REQUEST**

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,

Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to

Defendant's Request for Discovery as follows:

REQUEST NO. 1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/ or others who have First Discovery Motion participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1a & b: None known at this time.

REQUEST NO.2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

REQUEST NO. 2a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: For statements made by the defendant, please refer to Pocatello Police Department police report, LI#13-P01084 located on the Evidence Disc and defendant's recorded interviews two on the Evidence Disc and one on a DVD which are attached hereto and incorporated by reference.

06/14/13 -- ADDITIONAL: Also see Pocatello Police Department supplement to Offense Report #13-P01084 by T. Marshall attached hereto and incorporated by reference

REQUEST NO. 2b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There are no known co-defendants.

REQUEST NO. 2c. Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: The defendant's criminal history located on the Evidence CD attached hereto and incorporated by reference.

REQUEST NO. 2d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at the Preliminary Hearing and/or trial, or obtained from the Defendant.

RESPONSE NO 2d: Evidence which may be introduced at trial is as follows: interviews of Gas and Ogolla on DVDs and ...

911 call	gas hipaa form	officer browns notes
2013-01-23 REPORT 13-P01084	gas medical records	officer notes
130120_001 Ofc Buck w Gas	Goodin Guzman Hyde St	Ogolla
130120_002 Ofc Buck w Gas	Goodin Guzman PMC1	Picture001
adult rights form	Goodin Guzman PMC2 and Dwivedi PMC	Picture002
consent to search	Goodin Guzman PMC3	Picture086
criminal complaint	guzman hipaa form	Picture087
discharge instructions	guzman medical records	Picture088
Gas Criminal History	interview notes	sketch

06/14/2013 -- ADDITIONAL

- 2013-05-10 Lab Results
- 2013-05-31 Emails Prosecutor's office with Forensic Lab
- 2013-06-03 13-P01084 Marshall Supplement
- 2013-06-12 T. Marshall email re DNA on consensual partner
- fb messages
- phone call history

09/06/2013 -- ADDITIONAL: The State provided additional lab results to defense counsel via email, verification of which is attached hereto and incorporated herein.

REQUEST NO. 2e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting First Discovery Motion Attorney has access, or are intended for use by the Prosecuting Attorney as evidence at the Preliminary Hearing and/or at trial, or obtained from the Defendant, J.

RESPONSE NO 2e: The following books, papers, documents, photographs, tangible objects, buildings or places are either attached hereto and incorporated by reference: Interviews of Gas and Ogolla on DVDs and ...

911 call	gas hipaa form	officer brown's notes
2013-01-23 REPORT 13-P01084	gas medical records	officer notes
130120_001 Ofc Buck w Gas	Goodin Guzman Hyde St	Ogolla
130120_002 Ofc Buck w Gas	Goodin Guzman PMC1	Picture 001
adult rights form	Goodin Guzman PMC 2 and Dwivedi PMC	Picture 002
consent to search	Goodin Guzman PMC3	Picture 086
criminal complaint	guzman hipaa form	Picture 087
discharge instructions	guzman medical records	Picture 088
Gas Criminal History	interview notes	sketch

06/14/2013 -- ADDITIONAL:

- 2013-05-10 Lab Results
- 2013-05-31 Emails Prosecutor's office with Forensic Lab
- 2013-06-03 13-P01084 Marshall Supplement
- 2013-06-12 T. Marshall email re DNA on consensual partner
- fb messages
- phone call history

09/06/2013 -- ADDITIONAL: The State provided additional lab results to defense counsel via email, verification of which is attached hereto and incorporated herein.

REQUEST NO. 2f Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO 2f: For physical/mental examinations, scientific tests or experiments pertaining to this matter, please see previous responses.

REQUEST NO. 2g. Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the Preliminary Hearing and/or trial, together with

any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following persons may be called to testify at hearing or trial in this matter:

- Raushelle Goodin Guzman, 145 Hillcrest #38, Af, 269-0498 Msg
- Andrea Ogolla, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854
- Monique Hamblin, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854
- Richard Sammons, 3132 Neeley, Af, 269-0498
- Abhishek Dwivedi, 1222 Freeman Ln #139, Pocatello, 240-7736
- Ann Wilcox RN, PMC
- Curtis Sandy MD, PMC
- Gina Sterner RN, PMC
- Tracy Marshall, PPD
- William Brown, PPD
- Matthew Shutes, PPD
- Tarl Lambson, PPD
- Justin Buck, PPD
- Jeffrey Eldridge, PPD

06/14/2013 -- ADDITIONAL

- Jamie Femreite, ISP Forensic Lab - Meridian

09/06/2013 -- ADDITIONAL

- Rylene L. Nowlin, ISP Forensic Lab - Meridian

At the present time, to the best knowledge of the plaintiff, only the aforementioned individuals with an "*" before their name have a record of felony convictions which are attached hereto and incorporated by reference.

REQUEST NO. 2h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO 2h: For statements made by witnesses, please see Pocatello Police Department police report, LI#13-P01084, attached hereto and incorporated by reference.

06/14/13 -- ADDITIONAL: Also see Forensic Lab Results and emails attached hereto and incorporated by reference.

09/06/13 -- ADDITIONAL: Please see the new Forensic Lab Results previously referred to.

REQUEST NO. 2i. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

RESPONSE NO 2i: For reports and memorandum made by a police officer or investigator, please see Pocatello Police Department police report, LI#13-P01084 and officer notes located on the Evidence Disc attached hereto and incorporated by reference.

06/14/13 -- ADDITIONAL: Also see Forensic Lab Results and Pocatello Police Department Offense supplement to Report #13-P01084 by T. Marshall attached hereto and incorporated by reference.

09/06/13 -- ADDITIONAL: Please see the new Forensic Lab Results previously referred to.

REQUEST NO. 2j. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: For intercepted jail conversations, please contact the Bannock County Jail.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 1st day of September, 2013.



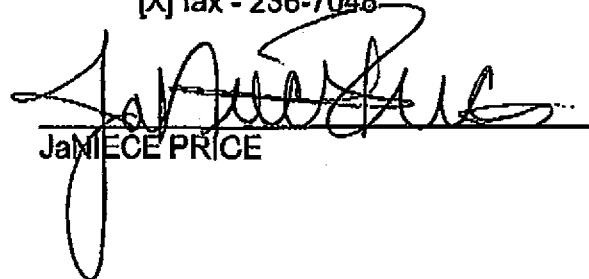
JaNECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 1st day of September, 2013, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☐ hand delivery
☒ fax - 236-7048



JaNECE PRICE

Jeanne Hobson

From: Jeanne Hobson
Sent: Thursday, August 28, 2013 02:20 PM
To: Kent Reynolds
Subject: State v. Aman Gas -- Latest Lab Results
Attachments: 2013-08-27 Lab Results.pdf

Dear Kent,

We have received the latest lab results concerning DNA with the exclusion of the consensual partner.
This lab report is attached hereto.

Sincerely,

Jeanne

Office Coordinator/Lead Legal Secretary
Bannock County Prosecutor's Office
P O Box "P"
Pocatello, ID 83205-0050
208-236-7280 - Main
208-236-7283 - Desk
208-236-7288 - Fax

Jeanne Hobson

From: Kent Reynolds
To: Jeanne Hobson
Sent: Thursday, August 29, 2013 02:20 PM
Subject: Read: State v. Aman Gas -- Latest Lab Results

Your message

To: Kent Reynolds
Subject: State v. Aman Gas -- Latest Lab Results
Sent: 8/29/2013 02:20 PM

was read on 8/29/2013 02:20 PM.



FORENSIC DNA REPORT

Case Agency: Pocatello Police Department	Agency Case No.: 13-P01084	Laboratory Case No.: M20130247
Suspect(s): Aman Gas	Date of Offense: January 20, 2013	Report Date: August 27, 2013
Victim(s): Raushelle Goodin-Guzman	Investigating Officer: Tracy Marshall	Analyst: Rylene L. Nowlin

Results and Interpretations

Deoxyribonucleic Acid (DNA) Analysis, employing the Polymerase Chain Reaction, was used to generate a Short Tandem Repeat (STR) profile from the following items: semen previously identified on a "vulva/vaginal" swab (Item 1B); semen identified on one of two penile swabs (Item 2B); saliva previously indicated on a "R hand undernails L hand undernails" swab (Item 2E); a known blood sample from Raushelle Goodin-Guzman (Item 1A) and Aman Gas (Item 2A); and a reference oral swab from Abhishek Dwivedi (Item 3).¹

The DNA profile obtained from the "R hand undernails L hand undernails" swab (Item 2E) indicates a mixture of DNA with a discernable major profile. Raushelle Goodin-Guzman is the source of this major DNA profile.² The minor DNA component of this mixture is consistent with having come from Aman Gas.

The DNA profile obtained from the sperm cell fraction of the "vulva/vaginal" swab (Item 1B) indicates a mixture of DNA with a discernable major profile. This major profile is consistent with having come from Raushelle Goodin-Guzman and is likely carry over from the epithelial cell (non-sperm) fraction. Abhishek Dwivedi cannot be eliminated as a potential contributor to the minor DNA component of this mixture. The profile obtained is at least 430,000,000 times more likely to be seen if it were the result of a mixture of DNA from Raushelle Goodin-Guzman and Abhishek Dwivedi than if it resulted from Goodin-Guzman and an unrelated individual randomly selected from the general population. Aman Gas is eliminated as a contributor to this mixture.

The DNA profile obtained from the semen on the penile swab (Item 2B) is consistent with having come from Aman Gas. The DNA profile obtained from the epithelial cell (non-sperm) fraction of the penile swab (Item 2B) indicates a mixture of DNA from at least two persons. Aman Gas and Raushelle Goodin-Guzman are included as potential contributors to this mixture. The profile obtained is at least 900,000,000,000,000 times more likely to be seen if it were the result of a mixture of DNA from Aman Gas and Raushelle Goodin-Guzman than if it resulted from Gas and an unrelated individual randomly selected from the general population. Abhishek Dwivedi is eliminated as a contributor to this mixture. Initial testing of a penile swab also detected eight minor alleles foreign to Aman Gas, Raushelle Goodin-Guzman and Abhishek Dwivedi. These foreign alleles were likely due to contamination; however, this occurrence could not be conclusively verified.

¹ Loci examined: D3S1358, TH01, D21S11, D18S51, Penta E, D5S818, D13S317, D7S820, D16S539, CSF1PO, Penta D, vWA, D8S1179, TPOX, and FGA.

² This conclusion is based upon the following: 1) a genetic match at the gender identity locus, Amelogenin, in addition to the 15 polymorphic STR loci listed above that have an expected population frequency of less than 1 in 3.9×10^{18} , 2) a statistical frequency exceeding the source attribution criterion of 1.6×10^{10} (for $N=1.6 \times 10^7$, $\alpha=0.01$ Forensic Science Communications 2(3) July 2000), and 3) that Raushelle Goodin-Guzman does not have a genetically identical twin.

Results and Interpretations Continued

The rectal (Item 1C) and "anal-buttocks" (Item 1E) swabs were not examined.

Disposition of Evidence

The DNA packet, which includes any remaining DNA extracts, has been retained in the laboratory. All remaining items have been returned to the main laboratory evidence vault for return to the submitting agency.

Evidence Description

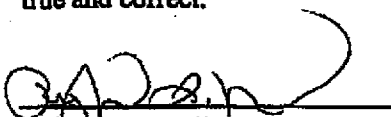
A tape-sealed DNA packet envelope, created in the laboratory on April 30, 2013, and containing the following items:

- 1A) A tape-sealed manila envelope containing reference bloodstains said to have been prepared from a known blood sample from Raushelle Goodin-Guzman.
- 1B) A tape-sealed white envelope containing six "vulva/vaginal" swabs, said to have been collected from Raushelle Goodin-Guzman.
- 1C) A tape-sealed white envelope said to contain rectal swabs from Raushelle Goodin-Guzman.
- 1E) A tape-sealed white envelope said to contain "anal-buttocks" swabs from Raushelle Goodin-Guzman.
- 2A) A tape-sealed manila envelope containing reference bloodstains said to have been prepared from a known blood sample from Aman Gas.
- 2B) A tape-sealed white envelope containing four penile swabs, said to have been collected from Aman Gas.
- 2E) A tape-sealed white envelope containing four "R hand undernails L hand undernails" swabs, said to have been collected from Aman Gas.

The following item was received in the laboratory via UPS on June 10, 2013:

Item 3 A tape-sealed manila envelope containing a tape-sealed swab box with two reference oral swabs, said to have been collected from Abhishek Dwivedi.

This report contains opinions and/or interpretations, of the undersigned analyst, based on scientific data. I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.


Rylene L. Nowlin
Forensic Scientist II



Idaho State Police DNA Restitution



As provided in Idaho Code 19-5506(G), the Idaho State Police requests restitution from the defendant(s), Aman Gas, in the amount of \$2,000 in association with Laboratory Report No. M20130247. This amount is based upon the number of DNA analyses performed at a cost of \$500 each, not to exceed a total of \$2,000. The amount requested reflects cost incurred to the laboratory during the analysis.

Analysis	Cost
1) Raushelle Goodin-Guzman (reference)	\$500.00
2) Aman Gas (reference)	\$500.00
3) Abhishek Dwivedi (reference)	\$500.00
4) "vulva/vaginal" swab	\$500.00
5) penile swab	-
6) "R hand undernails L hand undernails" swab	-

Please present this restitution request form and a copy of the laboratory report to the court at the time of sentencing.

Please make checks payable to: Idaho State Police
Forensic Services
700 South Stratford Drive Ste 125
Meridian, Idaho 83642-6202

Thank you for your cooperation in this matter.

Sincerely,

Natasha Wheatley
Forensic Services
Laboratory Manager

RLN
August 9, 2013

Idaho State Police, Forensic Services Evidence Submission/Receipt Form



Lab Use Only		Laboratory Case Number: <u>1720120247</u>	
Date Received: <u>10-7-13</u>		By: <u>[Signature]</u>	
Received in person		or via: <u>[Signature]</u> Phone #: _____	
Forwarded to: _____		By: _____ Date: _____	
Received from: _____		By: _____ Date: _____	
Lab Use Only When Returning Evidence			
Idaho State Police: _____		Date: _____	
Agency Representative: _____		Date: _____	

Submitting Agency (Do not abbreviate) Pocatello Police Department		Date of Offense 01-20-13		Agency Case Number 13-P01084	
County of Offense Bannock County		Charge Rape		Court Date	
Suspect <input checked="" type="checkbox"/>	GAS, AMAN		05-03-80		
Victim <input type="checkbox"/>					
Subject <input type="checkbox"/>	Name Last, First		DOB		State ID # (fingerprints only)
Suspect <input checked="" type="checkbox"/>	DWIVEDI, ABHISHEK				
Victim <input type="checkbox"/>					
Subject <input checked="" type="checkbox"/>	Name Last, First		DOB		State ID # (fingerprints only)
Suspect <input type="checkbox"/>	GOODIN-GUZMAN, RAUSHELLE				
Victim <input checked="" type="checkbox"/>					
Subject <input type="checkbox"/>	Name Last, First		DOB		State ID # (fingerprints only)
Suspect <input type="checkbox"/>					
Victim <input type="checkbox"/>					
Subject <input type="checkbox"/>	Name Last, First		DOB		State ID # (fingerprints only)
Status of Case (Mark one) New <input type="checkbox"/> Additional <input checked="" type="checkbox"/> Resubmittal <input type="checkbox"/>					
Investigating Officer Det. Tracy Marshall #5203			Phone number 208-234-6121		
Agency Exhibit Number	Exhibit Description	Location Found	Type of Exam Requested (see below)		
3 P15022	Buccal Swab from DWIVEDI	Mouth	Bio		

Type of exam: Biology (Bio), Controlled Substances (CS) or Fire Debris (FD),
Firearms/Toolmarks (F/T), Fingerprints (FP), or Shoeprint/tiretracks (S/T).

Agency representative: Submitting this form indicates agreement to ISP Forensic Services' terms and conditions, for analyzing this evidence as described at our web site: <http://www.isp.state.id.us/forensic/index.html>

EH 06 09-04

rev. 12/06

KL
STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

2014-04-17

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-13-864-FE-A
Plaintiff,)	
	)	THIRD SUPPLEMENTAL
vs.	)	RESPONSE TO
	)	DISCOVERY REQUEST
AMAN FARAH GAS,)	
)	
Defendant.)	
<hr/>		

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Request for Discovery as follows:

REQUEST NO. 1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/ or others who have First Discovery Motion participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1a & b: None known at this time.

REQUEST NO.2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

REQUEST NO. 2a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: For statements made by the defendant, please refer to Pocatello Police Department police report, LI#13-P01084 located on the Evidence Disc and defendant's recorded interviews two on the Evidence Disc and one on a DVD which are attached hereto and incorporated by reference.

06/14/13 -- ADDITIONAL: Also see Pocatello Police Department supplement to Offense Report #13-P01084 by T. Marshall attached hereto and incorporated by reference

04/15/14 – ADDITIONAL: Aman Gas Transport DVD

REQUEST NO. 2b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There are no known co-defendants.

REQUEST NO. 2c. Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: The defendant's criminal history located on the Evidence CD attached hereto and incorporated by reference.

REQUEST NO. 2d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting

Attorney has access, or are intended for use for evidence at the Preliminary Hearing and/or trial, or obtained from the Defendant.

RESPONSE NO 2d: Evidence which may be introduced at trial is as follows: interviews of Gas and Ogolla on DVDs and ...

911 call	gas hipaa form	officer browns notes
2013-01-23 REPORT 13-P01084	gas medical records	officer notes
130120_001 Ofc Buck w Gas	Goodin Guzman Hyde St	Ogolla
130120_002 Ofc Buck w Gas	Goodin Guzman PMC 1	Picture 001
adult rights form	Goodin Guzman PMC 2 and Dwivedi PMC	Picture 002
consent to search	Goodin Guzman PMC 3	Picture 086
criminal complaint	guzman hipaa form	Picture 087
discharge instructions	guzman medical records	Picture 088
Gas Criminal History	interview notes	sketch

06/14/2013 -- ADDITIONAL

- 2013-05-10 Lab Results
- 2013-05-31 Emails Prosecutor's office with Forensic Lab
- 2013-06-03 13-P01084 Marshall Supplement
- 2013-06-12 T. Marshall email re DNA on consensual partner
- fb messages
- phone call history

09/06/2013 -- ADDITIONAL: The State provided additional lab results to defense counsel via email, verification of which is attached hereto and incorporated herein.

04/15/14 -- Aman Gas Transport DVD

REQUEST NO. 2e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting First Discovery Motion Attorney as access, or are intended for use by the Prosecuting Attorney as evidence at the Preliminary Hearing and/or at trial, or obtained from the Defendant. J.

RESPONSE NO 2e: The following books, papers, documents, photographs,

tangible objects, buildings or places are either attached hereto and incorporated by reference: interviews of Gas and Ogolla on DVDs and ...

911 call	gas hipaa form	officer browns notes
2013-01-23 REPORT 13-P01084	gas medical records	officer notes
130120_001 Ofc Buck w Gas	Goodin Guzman Hyde St	Ogolla
130120_002 Ofc Buck w Gas	Goodin Guzman PMC 1	Picture 001
adult rights form	Goodin Guzman PMC 2 and Dwivedi PMC	Picture 002
consent to search	Goodin Guzman PMC 3	Picture 086
criminal complaint	guzman hipaa form	Picture 087
discharge instructions	guzman medical records	Picture 088
Gas Criminal History	interview notes	sketch

06/14/2013 – ADDITIONAL:

- 2013-05-10 Lab Results
- 2013-05-31 Emails Prosecutor's office with Forensic Lab
- 2013-06-03 13-P01084 Marshall Supplement
- 2013-06-12 T. Marshall email re DNA on consensual partner
- fb messages
- phone call history

09/06/2013 -- ADDITIONAL: The State provided additional lab results to defense counsel via email, verification of which is attached hereto and incorporated herein.

04/15/14 – Aman Gas Transport DVD

REQUEST NO. 2f Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO 2f: For physical/mental examinations, scientific tests or

experiments pertaining to this matter, please see previous responses.

REQUEST NO. 2g. Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the Preliminary Hearing and/or trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following persons may be called to testify at hearing or trial in this matter:

- Raushelle Goodin Guzman, 145 Hillcrest #38, Af, 269-0498 Msg
- Andrea Ogolla, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854
- Monique Hamblin, 425 Hyde Ave, Pocatello, 226-6296 / 240-5854
- Richard Sammons, 3132 Neeley, Af, 269-0498
- Abhishek Dwivedi, 1222 Freeman Ln #139, Pocatello, 240-7736
- Ann Wilcox RN, PMC
- Curtis Sandy MD, PMC
- Gina Sterner RN, PMC
- Tracy Marshall, PPD
- William Brown, PPD
- Matthew Shutes, PPD
- Tarl Lambson, PPD
- Justin Buck, PPD
- Jeffrey Eldridge, PPD

06/14/2013 -- ADDITIONAL

- Jamie Femreite, ISP Forensic Lab - Meridian

09/06/2013 -- ADDITIONAL

- Rylene L. Nowlin, ISP Forensic Lab - Meridian

At the present time, to the best knowledge of the plaintiff, only the aforementioned individuals with an "*" before their name have a record of felony convictions which are attached hereto and incorporated by reference.

REQUEST NO. 2h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO 2h: For statements made by witnesses, please see Pocatello Police Department police report, LI#13-P01084, attached hereto and incorporated by reference.

06/14/13 -- ADDITIONAL: Also see Forensic Lab Results and emails attached hereto and incorporated by reference.

09/06/13 -- ADDITIONAL: Please see the new Forensic Lab Results previously referred to.

REQUEST NO. 2i. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

RESPONSE NO 2i: For reports and memorandum made by a police officer or investigator, please see Pocatello Police Department police report, LI#13-P01084 and officer notes located on the Evidence Disc attached hereto and incorporated by reference.

06/14/13 -- ADDITIONAL: Also see Forensic Lab Results and Pocatello Police Department Offense supplement to Report #13-P01084 by T. Marshall attached hereto and incorporated by reference.


09/06/13 -- ADDITIONAL: Please see the new Forensic Lab Results previously referred to.

REQUEST NO. 2j. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: For intercepted jail conversations, please contact the Bannock County Jail.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 15th day of April, 2014.

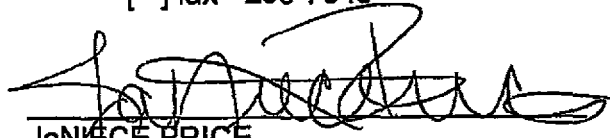

JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 15th day of April, 2014, a true and correct copy of the foregoing SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ fax - 236-7048


JANIECE PRICE

04/15/14
15:00

Bannock County Sheriff's Office
Detail Incident Report

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Page: 1

Incident #: 13-P01084

LAW INCIDENT:

Nature: ASSAULT
Location:

Address: 425 HYDE AVE
City: Pocatello

ST: ID Zip: 83201

Offense Codes: SAFS

Received By: LOWTHER, A

How Received: 911 Line

Agency: PPD

Rspndg Officers: ELDRIDGE, J

PETERSON, S

SHUTES, M

LAMBSON,

Rspnsbl Officer: MARSHALL, T

Disposition: Clrd Adult Arrest

on 01/21/13

When Reported: 03:43:25 01/20/13

Occurred: Between 03:43:00 01/20/13 and 09:58:00 01/20/13

VICTIMS:

NAME: GOODIN GUZMAN, RAUSHELLE M.

Name Number: 222084

Race: U Sex: F DOB: [REDACTED]

Address: 145 HILCREST; #38, AMERICAN FALLS, ID 83211

Home Phone: (208)844-0418

Work Phone: (208)269-0498 mes

WITNESSES:

NAME: OGOLLA, ANDREA M

Name Number: 104594

Race: W Sex: F DOB: [REDACTED]

Address: 425 HYDE AVE, Pocatello, ID 83201

Home Phone: (208)226-6296

Work Phone: (208)240-5854

NAME: SAMMONS, RICHARD T

Name Number: 204845

Race: W Sex: M DOB: [REDACTED]

Address: 3132 neeley, AMERICAN FALLS, ID 83211

Home Phone: (208)269-0498

Work Phone: () -

NAME: DWIVEDI, ABHISHEK

Name Number: 260041

Race: Sex: M DOB: [REDACTED]

Address: 1222 FREEMAN LN; #101, Pocatello, ID 83201

Home Phone: (208)220-3054

Work Phone: () -

SUSPECTS:

NAME: GAS, AMAN F.

Name Number: 238533

Race: B Sex: M DOB: [REDACTED]

Height: 6'01" Weight: 200 Hair: BLK Eyes: BRO

Address: 425 HYDE AVE, Pocatello, ID 83201

Home Telephone: (208)240-8826

Work Telephone: () -

WANTED PERSONS:

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Incident #: 13-P01084

NAME: GAS, AMAN F.

Name Number: 238533

Race: B Sex: M DOB: [REDACTED]

Height: 6'01" Weight: 200 Hair: BLK Eyes: BRO

Address: 425 HYDE AVE, Pocatello, ID 83201

Home Telephone: (208)240-8826

Work Telephone: () -

PROPERTY INFORMATION:

Item Type: DVD

Property Number: P147040

Item/Brand: INTERVIEW

Model: AMAN GAS

Serial Number:

Color: /

Characteristics:

Quantity: 1

Meas:

Total Value: 0.00

Local Status: Evidence in Storage

Owner ID Number: 238533 Owner Name: GAS, AMAN

INTERVIEW OF AMAN GAS ON 01-20-13 AT THE POCATELLO P.D.

Item Type: SWAB

Property Number: P147066

Item/Brand: BUCCAL SWAB

Model: AMAN GAS

Serial Number:

Color: /

Characteristics:

Quantity: 1

Meas:

Total Value: 0.00

Local Status: Evidence in Storage

Owner ID Number: 238533 Owner Name: GAS, AMAN

Item Type: MEMORY CARD

Property Number: P147067

Item/Brand: SD

Model:

Serial Number:

Color: /

Characteristics:

Quantity: 1

Meas:

Total Value: 10.00

Local Status: Evidence in Storage

Owner ID Number: 222084 Owner Name: GOODIN GUZMAN, RAUSHELLE

CONTAINS PICTURES OF THE VICTIM, TAKEN BY THE SAME NURSE.

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Incident #: 13-P01084

Item Type: CLOTHES
Item/Brand: CAMISOLE
Serial Number:
Characteristics:
Quantity: 1 Meas: Total Value: 10.00
Local Status: Evidence in Storage
Owner ID Number: 222084 Owner Name: GOODIN GUZMAN, RAUSHELLE
Property Number: P147068
Model:
Color: BLU /

1 CAMISOLE, BLUE.

Item Type: CLOTHES
Item/Brand:
Serial Number:
Characteristics:
Quantity: 1 Meas: Total Value: 0.00
Local Status: Evidence in Storage
Owner ID Number: 222084 Owner Name: GOODIN GUZMAN, RAUSHELLE
Property Number: P147069
Model: CAMISOLE
Color: GRY /

1 GREY CAMISOLE

Item Type: CLOTHES
Item/Brand:
Serial Number:
Characteristics:
Quantity: 1 Meas: Total Value: 10.00
Local Status: Evidence in Storage
Owner ID Number: 222084 Owner Name: GOODIN GUZMAN, RAUSHELLE
Property Number: P147073
Model: JEANS
Color: BLU /

JEANS WORE BY VICTIM.

Item Type: CLOTHES
Item/Brand:
Serial Number:
Characteristics:
Quantity: 1 Meas: Total Value: 10.00
Local Status: Evidence in Storage
Owner ID Number: 222084 Owner Name: GOODIN GUZMAN, RAUSHELLE
Property Number: P147077
Model: JACKET
Color: BLK /

JACKET WORN BY VICTIM

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Incident #: 13-P01084

Item Type: CLOTHES
Item/Brand:
Serial Number:
Characteristics:
Quantity: 1 Meas: Total Value: 10.00
Local Status: Evidence in Storage
Owner ID Number: 222084 Owner Name: GOODIN GUZMAN, RAUSHELLE

BRA WORN BY THE VICTIM.

Item Type: SEX CRIME KIT
Item/Brand: GOODIN-GUZMAN
Serial Number:
Characteristics:
Quantity: 1 Meas: Total Value: 0.00
Local Status: Evidence in Storage
Owner ID Number: 222084 Owner Name: GOODIN GUZMAN, RAUSHELLE

Item Type: SEX CRIME KIT
Item/Brand: AMAN GAS
Serial Number:
Characteristics:
Quantity: 1 Meas: Total Value: 0.00
Local Status: Evidence in Storage
Owner ID Number: 238533 Owner Name: GAS, AMAN

Item Type: SHEETS
Item/Brand: FROM HOSPITAL
Serial Number:
Characteristics:
Quantity: Meas: Total Value: 0.00
Local Status: Evidence in Storage
Owner ID Number: Owner Name: ,

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Incident #: 13-P01084

Item Type: DVD
Item/Brand: INTERVIEW
Serial Number:
Characteristics:
Quantity: 1 Meas: Total Value: 0.00
Local Status: Evidence in Storage
Owner ID Number: 104594 Owner Name: OGOLLA, ANDREA
Property Number: P147275
Model: ANDREA OGOLLA
Color: /

INTERVIEW OF ANDREA OGOLLA ON 01-30-13 WHILE AT THE POCA TELLO POLICE DEPARTMENT.

Item Type: SWAB
Item/Brand: BUCCAL
Serial Number:
Characteristics:
Quantity: 1 Meas: Total Value: 0.00
Local Status: Evidence in Storage
Owner ID Number: 260041 Owner Name: DWIVEDI, ABHISHEK
Property Number: P150226
Model:
Color: /

Item Type: SWAB
Item/Brand: DNA TEST
Serial Number: GOODIN GUZMAN, RAUSH
Characteristics:
Quantity: 1 Meas: Total Value: 0.00
Local Status: Evidence in Storage
Owner ID Number: 222084 Owner Name: GOODIN GUZMAN, RAUSHELLE
Property Number: P156971
Model:
Color: /

Item Type: DVD
Item/Brand: ICOP
Serial Number:
Characteristics:
Quantity: 1 Meas: Total Value: 0.00
Local Status: Evidence in Storage
Owner ID Number: 238533 Owner Name: GAS, AMAN
Property Number: P158745
Model: TRANSPORT
Color: /

VIDEO OF THE TRANSPORT OF AMAN GAS FROM HYDE TO THE PPD.

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Incident #: 13-P01084

NARRATIVE:

OFFICER: BROWN #5237

Dictated: 01/20/13 @ 1138 HRS

Investigative Time: 8 HRS

LAW INCIDENT #: 13-P01084

STENO INITIALS: PF

DATE & TIME

Transcribed: 01/20/13 @ 1229 HRS

#16 - SEXUAL OFFENSE:

1. BRIEF SYNOPSIS OF THE OFFENSE:

On 10/20/12 at approximately 0343 hours, officers were dispatched to 425 Hyde Avenue in reference to a possible sexual assault at that location. Officers were advised that RICHARD J. SAMMONS was on scene with his daughter, RAUSHELLE GOODIN-GUZMAN, who was reporting being raped at that address. Upon further investigation into the incident a male subject by the name of AMAN F. GAS was later arrested for Rape.

2. PREMISES LOCATION AND DESCRIPTION:

The premise is 425 Hyde Avenue with a basement apartment.

3. FIRST PERSON NOTIFIED BY THE VICTIM:

The first person notified by the victim was her father, RICHARD J. SAMMONS.

4. SUSPECT/VICTIM RELATIONSHIPS:

Acquaintances - had met 3-4 times previously.

5. WEAPONS OR FORCE USED:

There was no force used; the female was asleep.

6. MEDICAL TREATMENT; WHEN, WHERE, BY WHOM:

Medical treatment was provided by Portneuf Medical Center on 01/20/13 at approximately 0415 hours, by SANE Nurse ANN WILCOX.

7. DOCUMENTS OF EVIDENCE TO BE FILED IN RECORDS:

(STATEMENTS, RIGHTS FORMS, ANY FORMS, LATENTS, PHOTOS, ETC.)

RELEASE FORM: One Authorization for Release of Medical Information form signed by RAUSHELLE GOODIN-GUZMAN placed into the Records basket

PHOTOGRAPHS: Two digital photographs taken at the hospital uploaded into the Files section of Spillman under this LI as follows:

-Photograph number 001 is an overall photograph of GOODIN-GUZMAN prior to medical treatment, front view.

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-Photograph number 002 is GOODIN-GUZMAN prior to medical treatment, rear view.

RECORDINGS: Four digital audio recordings of interviews uploaded into the Files section of Spillman under this LI as follows:

- Goodin GUZMAN Hyde St.WMA
- Goodin GUZMAN PMC 1.WMA
- Goodin GUZMAN PMC 2 and Dwivedi PMC.WMA
- Goodin GUZMAN PMC 3.WMA

8. VICTIM(S) INTERVIEW(S):

See Additional Information Not Previously Stated

9. WITNESS(ES) OBSERVATIONS:

See Additional Information Not Previously Stated

10. SUSPECT(S) INTERVIEW(S) / INFORMATION:

On 01/20/13 at approximately 0343 hours, officers were dispatched to 425 Hyde Avenue in reference to a possible sexual assault that had occurred at that location. Officers were advised that RICHARD J. SAMMONS was on scene with his daughter, RAUSHELLE GOODIN-GUZMAN, who was reporting being raped at that address and they were waiting out front in a vehicle. Officer SHUTES and Officer LAMBSON arrived on scene and I arrived shortly thereafter. When I arrived Officer SHUTES was speaking with SAMMONS in the street in front of 425 Hyde Avenue. In speaking with them, they advised that GOODIN-GUZMAN was in a vehicle parked along the west side of the road in front of 425 Hyde Avenue, the vehicle being a silver 2003 Saab four-door bearing Idaho license plate 1BT6724.

I went to the vehicle and contacted GOODIN-GUZMAN who was sitting in the passenger seat. She was very upset and crying. I asked her very briefly what had taken place. She indicated she had been in the house and was asleep when "He started messing with me." and "He put it in my butt." I asked her who she was referring to and she said she only knew him by his first name, AMAN, later identified as AMAN F. GAS. The driver of the Saab was GOODIN-GUZMAN'S friend, ABHISHEK DWIVEDI. I asked GOODIN-GUZMAN if she would be willing to go to the hospital to be seen by a nurse. She said she would and DWIVEDI agreed to take her there. From there I followed DWIVEDI and GOODIN-GUZMAN to the Portneuf Medical Center Emergency Room. We were moved into Emergency Room number 7 where I spoke with GOODIN-GUZMAN further about what had happened.

GOODIN-GUZMAN stated she arrived at 425 Hyde, the basement apartment around 1730 hours and stayed until 1830 hours when she left with DWIVEDI. She returned to the residence of 425 Hyde and was dropped off by DWIVEDI. When she got back to the residence around 2000 hours there was her friend ANDREA (OGOLLA) whom she described as an approximately 24-year-of-age white female, OGOLLA'S mom MONIQUE whom she described as a white female but did not know how old, ADRIAN (unknown spelling) whom she described as an approximately 28-year-of-age black male, and AMAN (GAS) whom she described as an approximately 25-year-of-age black male. GOODIN-GUZMAN continued that they were at the house drinking and watching movies. One of them was the movie Men in Black 3.

At one point GOODIN-GUZMAN tried getting OGOLLA to go out, possibly to a bar, but OGOLLA did not want to go. GOODIN-GUZMAN said she talked with GAS at that

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point jokingly about going out but that was the only conversation they had throughout the night. GOODIN-GUZMAN said she did not know GAS real well but she had met him three to four times and knew him on sight. GOODIN-GUZMAN continued that at some point during the evening she fell asleep or passed out on a couch in the living room. She said she had an orange fleece blanket over her. She could not state what time she went to sleep but said she remembered what time the incident happened and she thought it was around 2330 hours.

GOODIN-GUZMAN said she was asleep when she saw a black outline standing by the couch over her. She was lying on her right side and he was standing in the area of her mid-section. She showed me by pointing at the area of where he was standing. She said GAS stuck his fingers in her mouth. Then he started fingering around her butt and tried getting her pants down, eventually pulling them down below her butt cheeks. GOODIN-GUZMAN said that throughout the initial parts of the incident she was not sure what was happening. She thought she was dreaming or something and she remembered looking back, seeing GAS, and then rolling back over on the couch. At one point she remembered swatting her left hand back but did not hit anything. She said that after she rolled back he "stuck it in!" I clarified with GOODIN-GUZMAN that he stuck his penis in her butt and she said, "Yes!" She also said that before he stuck "it in" he spit on her butt. GOODIN-GUZMAN continued that he "went up and down" about three times.

I confirmed that she meant undulating and she said, "Yes!" I asked GOODIN-GUZMAN if she felt any pain and she said, "Yes!" GOODIN-GUZMAN continued that once he "stuck it in" it really hurt and it woke her up and she realized she was not dreaming and she realized at that point what was happening.

GOODIN-GUZMAN said she told GAS, "No! I have to go to the bathroom!" GOODIN-GUZMAN said she got off the couch, got into the bathroom, and locked herself inside. When she used the toilet she noticed there was blood in the bowl. She stayed locked in the bathroom until her friend OGOLLA came to the door and told her she needed to use the bathroom. At that point GOODIN-GUZMAN went directly into OGOLLA'S room, got OGOLLA'S phone from the nightstand, and once OGOLLA was done in the bathroom, locked herself back in and started Facebooking people for help. She said she sent a Facebook message to friends JAKE, CHRIS, and JASON asking for help and then put an update on her own Facebook page asking for help. She got a message back from her father, SAMMONS, over Facebook and then was able to call DWIVEDI on his cell phone from OGOLLA'S phone. Once GOODIN-GUZMAN was able to get DWIVEDI and SAMMONS en route to help her she left the bathroom, put OGOLLA'S phone down on the table, gathered her shoes and a coat, and left the residence and waited outside near the intersection of Pine Street and Hyde Avenue. GOODIN-GUZMAN also said that on her way out the door of the house she saw GAS laying on the couch in the living room.

I spoke with GOODIN-GUZMAN a few minutes later after a nurse spoke with her, to clarify when the incident on the couch had occurred. GOODIN-GUZMAN had originally said it happened around 2330 hours but after speaking with her again she said she honestly could not remember what time it happened. At that point I spoke with DWIVEDI in the lobby of Portneuf Medical Center. He said he dropped GOODIN-GUZMAN off at 425 Hyde around 2030 hours and then he went home. He got a call he thought around 0300 hours from GOODIN-GUZMAN from OGOLLA'S phone telling him she had been raped. GOODIN-GUZMAN told DWIVEDI she wanted him to come and get her and that she was locked in the bathroom. I had DWIVEDI confirm the time on his phone and the call from GOODIN-GUZMAN came in at 0341 hours and OGOLLA'S phone number was 208-240-5854.

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15:00

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I also spoke with SAMMONS briefly in the lobby and he indicated that his first Facebook response to GOODIN-GUZMAN'S update and request for help was at 0321 hours.

At approximately 0650 hours at the request of Detective MARSHALL I spoke with DWIVEDI again in the lobby. He stated he and GOODIN-GUZMAN were former boyfriend and girlfriend and that they had consensual sex earlier in the evening around 1930 hours while at a friend's house that was about four to five houses away from the address on Hyde Avenue. DWIVEDI said it was normal vagina sex, one time where he used a condom.

At approximately 0712 hours I spoke with GOODIN-GUZMAN and she confirmed that she and DWIVEDI were on again/off again boyfriend and girlfriend, they had consensual sex around 1900 hours at a friend's house named VIJAY on Pine Street, and it was vaginal sex, two encounters, where DWIVEDI used a condom on the first time, not on the second.

After completing my interviews with GOODIN-GUZMAN and DWIVEDI, I remained at the hospital with GOODIN-GUZMAN while she was seen by SANE Nurse ANN WILCOX. Detective MARSHALL arrived on scene and took possession of all physical evidence obtained by WILCOX. Once WILCOX and Detective MARSHALL were completed, GOODIN-GUZMAN left the hospital with SAMMONS and DWIVEDI.

Once completed at the hospital I returned to the Pocatello Police Station and cleared from the call. At this time there is no further information. See Detective MARSHALL'S report for additional information regarding this incident.

End of report

SUPPLEMENTAL NARRATIVE:

ARREST:

AFFIDAVIT OF PROBABLE CAUSE
ARREST REPORT

Date: 01-20-13 Time: 0957 Officer: T. MARSHALL #5203

Arrestees Name: GAS, AMAN F
Charge: RAPE - 18-6101
Citation #:
Bond: NO BOND
LI#: 13-P01084

SYNOPSIS:

On 01-20-13 at approximately 0343 hours, RICHARD SAMMONS reported that his daughter had been raped at 425 Hyde Ave earlier this morning. Cpl. BROWN made

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contact with the victim, RAUSHELLE GOODIN-GUZMAN outside the residence while she was sitting in her friend's vehicle. Cpl. BROWN spoke to her briefly and she agreed to go to the hospital for a sexual assault exam. GOODIN-GUZMAN was transported by her friend, ABHISHEK DWIVEDI, to the Portneuf Medical Center (PMC) Emergency Room. Cpl. BROWN then interviewed GOODIN-GUZMAN while at PMC and she said the following: She had arrived at her friend ANDREA OGOLLA's house, located at 425 Hyde - Basement apartment, at approximately 2000 hours on 01-19-13. There were several people at the apartment and they were watching movies. GOODIN-GUZMAN admitted that she had been consuming alcoholic beverages throughout the night, and at some point, she fell asleep on the couch in the living room. Sometime later, she had partially woke up but thought that she was still dreaming. She was laying on her right side so that she was facing the back of the couch. She saw a black male standing behind her, near her mid-section. The male put his finger into her mouth and then placed his hand down the back of her pants and placed his finger near her "butt." The male tried to pull her pants down. He was able to get her pants pulled down just below her "butt cheeks." During this time, GOODIN-GUZMAN saw the male "spit" on her "butt" area. GOODIN-GUZMAN rolled over slightly so that she could look behind her and noticed that the male subject was AMAN GAS. GAS is her friend OGOLLA's roommate and has met him on several occasions. GOODIN-GUZMAN then rolled back onto her side, still thinking that she was dreaming. At this point, GAS put his penis inside her anus and "pumped" approximately three times. The pain that this caused to GOODIN-GUZMAN caused her to wake up fully and realize that she was not dreaming. She told GAS "NO, I have to go to the bathroom." She then went to the bathroom and locked the door. While in the bathroom, GOODIN-GUZMAN urinated and when she looked into the toilet bowl, she noticed some blood. GOODIN-GUZMAN stayed in the bathroom until OGOLLA knocked on the door and needed to use the bathroom. GOODIN-GUZMAN exited the bathroom and went to OGOLLA's bedroom and closed the door. She does not have a cell phone of her own and so she used OGOLLA's phone that was located in the bedroom. GOODIN-GUZMAN tried to facebook message her father asking for help. She also tried to call DWIVEDI. She was able to get a hold of DWIVEDI at approximately 0341 hours on 01-20-13. GOODIN-GUZMAN told DWIVEDI that she had been raped and that she needed help. DWIVEDI agreed to come and pick her up. She was also able to get a hold of her father, SAMMONS, by Facebook messaging. He told her that he was on his way to get her as well. This occurred at approximately 0321 hours on 01-20-13. GOODIN-GUZMAN grabbed her shoes and coat and left the apartment. She waited near the intersection of Hyde and Pine until SAMMONS and DWIVEDI arrived. For further information on this see the recorded interview completed by Cpl. BROWN.

I made contact with the SANE Nurse that completed the Sexual Assault Exam on GOODIN-GUZMAN. She informed me that there were two tears in the area of GOODIN-GUZMAN's anus. There was also an injury that started on the outside of the anus area and ends inside.

Patrol officers were able to make contact with AMAN GAS at 425 Hyde Ave. He agreed to go to the Pocatello Police Department voluntarily to speak to officers about this incident. He was given a voluntary transport. Upon my contact with GAS inside the interview room, I informed him that he was not under arrest and free to leave at any point. I also informed him that if he no longer wished to speak to the police to tell me. GAS agreed to speak to me about this incident. He said that he had been watching movies throughout the evening. He said that GOODIN-GUZMAN arrived at the apartment at approximately 1700 hours on 01-19-13. She was there for a while and then was picked up by, DWIVEDI. A few hours later

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GOODIN-GUZMAN returned to the residence. GAS could not remember what time she got back. He also said that everyone at the apartment had been drinking alcoholic beverages throughout the night and that included GOODIN-GUZMAN. Gas told me that while watching a movie, GOODIN-GUZMAN sat down next to him on the couch. She then laid down on the couch, putting her head on his thigh. She also reached up and grabbed his hand and held it near her chest. GAS said that later, he left to go to Hooligans bar with OGOLLA. He said that GOODIN-GUZMAN did not go with them. He got a ride home from a friend at approximately 0300 hours on 01-20-13. He walked into the apartment through the kitchen door and into the living room. GAS noticed that GOODIN-GUZMAN was "passed out" on the couch. The couch is described as being an "L" shaped couch. GOODIN-GUZMAN was lying on the side near the kitchen door. GAS could not remember what direction GOODIN-GUZMAN head was pointed or how she was laying on the couch. He said that he took off his shoes and his shirt and laid down on the other end of the couch, covered himself with a blanket and then fell asleep. He was adamant that he could not remember anything from this point, until the police knocked on the door. GAS was informed that GOODIN-GUZMAN was at the hospital with injuries that she claimed were from him. And that these injuries were from a possible rape. GAS then told me that he wanted to leave. I stepped out of the interview room where I made contact with Cpl. BROWN who was still at PMC with GOODIN-GUZMAN. Cpl. BROWN told me that the SANE Nurse was currently with GOODIN-GUZMAN for the Sexual Assault Exam. Based on the corroborating information that Cpl. BROWN advised me, I then decided to detain GAS. I then informed GAS that based on all the information I had at this time, he was being detained. I also read him the Adult Rights Form and asked if he wished to talk to me without a lawyer present. He agreed to sign the Adults Rights Form and to talk to me without a lawyer present. He was asked to submit to a penis swab and scrapings from under his fingernails for DNA evidence. He agreed to this testing. He was transported to PMC where a SANE Nurse completed this evidence collection. I then brought Gas back to the Pocatello P.D. where I spoke to him some more about this incident. GAS was adamant that he was not involved in the rape. GAS was then advised that he was under arrest for Rape and transported to the Bannock County Jail where he was incarcerated. For full details on this interview with GAS, see the DVD that was placed into evidence. tm

State of Idaho)
) ss
County of Bannock)

T. MARSHALL #5203 being first duly sworn, deposes and says that I am a law enforcement officer with POCATELLO POLICE DEPARTMENT. I have conducted an investigation regarding AMAN F GAS. Based on that investigation, I request a Sixth District Judge to make a determination of probable cause to arrest, hold or set bond on the above named defendant for the public offense of RAPE, a violation of I.C. 18-6101. The basis for this request is the information set forth in a police report which is designated as Exhibit "A" attached or within hereto. I further depose and say that I have read Exhibit "A" and all the contents are true to the best of my knowledge, and that I personally know the author of that report to be a law enforcement officer whom I believe to be credible and reliable.

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Dated this 20th day of January, 2013

Officer signature _____ Pocatello Police Dept.

State of Idaho)
)
County of Bannock) ss

T. MARSHALL #5203, known to me to be the person whose name is subscribed to this Affidavit of Probable Cause, acknowledged to me that s/he has read and executed the document/s and the contents are true to the best of her/his knowledge.

Subscribed and sworn before me this 20th day of January, 2013

Notary Public

Commission expires on _____

Detailed Report to follow.

SUPPLEMENTAL NARRATIVE:

OFFICER: BUCK #5162 DICTATED: 01/20/13 @ 0630 HRS
INVESTIGATIVE TIME: 1 HR
LAW INCIDENT #: 13-P01084
STENO INITIALS: PF
DATE & TIME TRANSCRIBED: 01/20/13 @ 0958 HRS

1. DOCUMENTS OF EVIDENCE TO BE FILED IN RECORDS:
(STATEMENTS, RIGHTS FORMS, LATENTS, PHOTOS, ETC.)

RECORDING: A digitally recorded interview between Sergeant BUCK, Officer SHUTES, and the suspect, AMAN GAS labeled Ogolla.msv uploaded into the Files section of Spillman under this LI

2. NARRATIVE:

On 01/20/13 at approximately 0400 hours, I responded to 425 Hyde to assist Officer SHUTES and Officer ELDRIDGE with a report of a sexual assault. Upon arrival I made contact with ANDREA OGOLLA in the basement apartment. I asked if she was familiar with a girl named RAUSHELLE. She advised that she was friends with RAUSHELLE. I told OGOLLA that RAUSHELLE had reported being injured this evening and asked OGOLLA to help me figure out where RAUSHELLE had been. OGOLLA told me she lives at 425 Hyde with her roommate, AMAN GAS, and her mother,

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MONIQUE HAMBLIN. OGOLLA advised that all three of them were at home on 01/19/13 at approximately 1930 hours, when RAUSHELLE was dropped off at the residence on Hyde. OGOLLA advised that for approximately the next hour RAUSHELLE used OGOLLA'S phone to text her boyfriend who OGOLLA knew only as AADI with a phone number of 240-7736. OGOLLA advised that all four of the subjects were drinking at the residence on Hyde. She stated that RAUSHELLE drank two Corona beers and one shot of vodka.

At approximately 2030 hours AADI arrived outside the residence on Hyde to pick up RAUSHELLE. According to OGOLLA, AADI did not come inside because he did not feel he could face RAUSHELLE'S friends since AADI had just gotten married to someone else. According to OGOLLA, RAUSHELLE returned to the residence of 425 Hyde at approximately 2200 hours and passed out on the couch in the living room. OGOLLA pointed to the couch where RAUSHELLE had fallen asleep. The couches in this case are arranged in an L shape, one couch against the west wall of the living room and the other couch against the north wall of the living room. OGOLLA advised that RAUSHELLE fell asleep on the western couch. At approximately 2300 hours, OGOLLA stated she and GAS left the residence to go to Hooligan's at 100 North Third. OGOLLA stated that Hooligan's was very crowded so she returned to her residence on Hyde approximately 30 minutes later at 2330 hours and went to sleep in her bedroom. According to OGOLLA, RAUSHELLE was still asleep on the west couch in the living room.

OGOLLA advised that she was asleep until approximately 0400 hours when she awoke to Officer SHUTES and Officer ELDRIDGE knocking on the door. OGOLLA advised that was the first time she noticed that RAUSHELLE was gone. I asked OGOLLA to show me the texts that had been transferred between RAUSHELLE and AADI. She looked for the texts but advised they were no longer on her phone and it appeared that RAUSHELLE had deleted them. She did, however, state that she had checked her call log and it appeared that at 0312 hours on 01/20/13, AADI had telephoned RAUSHELLE on OGOLLA'S phone. At approximately 0323 hours RAUSHELLE had called AADI and at 0331 hours AADI had again called RAUSHELLE.

I then spoke briefly with AMAN GAS. He advised he had been in his house at 425 Hyde at approximately 1900 hours when RAUSHELLE came over. He stated that he, ANDREA OGOLLA, MONIQUE HAMBLIN, and RAUSHELLE had all been drinking and between the four of them they finished a bottle of vodka. GAS also stated that while they were drinking he was sitting on the northernmost couch and RAUSHELLE kept coming over and sitting by him. GAS advised that while RAUSHELLE was sitting by him she kept sitting closer and closer and he was under the impression RAUSHELLE wanted to "be with" him. GAS advised that approximately an hour later RAUSHELLE left with her boyfriend, AADI, but came back at approximately 2300 hours. According to GAS, RAUSHELLE wanted to go to the bar with him but GAS did not want to take her because she was intoxicated and he did not want to babysit her. GAS stated he left with OGOLLA and went to Hooligan's Bar. GAS stated he did not return until approximately 0300 hours after the bar had closed and RAUSHELLE was asleep on the western couch when he arrived home. GAS advised he undressed and fell asleep on the northern couch and was asleep until he was awakened by Officer SHUTES and Officer ELDRIDGE knocking on the door. That was the first time he noticed that RAUSHELLE was no longer asleep on the west couch.

I asked GAS if he would be willing to go to the Pocatello Police Station to provide a detailed statement to officers and he agreed. He was transported to the Pocatello Police Station by Officer ELDRIDGE. No further action was taken on my part.

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End of report

SUPPLEMENTAL NARRATIVE:

OFFICER: LAMBSON #5261 DICTATED: 01/20/13 @ 1028 HRS
INVESTIGATIVE TIME: 5.5 HRS
LAW INCIDENT #: 13-P01084
STENO INITIALS: PF
DATE & TIME TRANSCRIBED: 01/20/13 @ 1125 HRS

1. DOCUMENTS OF EVIDENCE TO BE FILED IN RECORDS:
(STATEMENTS, RIGHTS FORMS, LATENTS, PHOTOS, ETC.)

RECORDINGS: Digital recordings uploaded into the Files section of Spillman under this II as follows:

-130120001 is of the duration of the subject's cigarette break

-130120002 is of the duration of the collection of DNA evidence at Portneuf Medical Center

2. NARRATIVE:

On 01/20/13 around 0645 hours, I responded to 425 Hyde Avenue to assist Officer SHUTES with a possible sexual assault. Upon arrival a male subject approached me and told me his daughter was waiting in the car next to the street and that she had been assaulted by a subject inside the residence of 425 Hyde Avenue. He stated he was unsure how many occupants were still inside the residence. Officer SHUTES spoke with the subject and I secured the perimeter with other officers until contact could be made with the subjects inside. I returned to the station and waited as Detective MARSHALL interviewed the subject. At one point the subject wished for a cigarette break. I took the subject out to the back of the department and recorded the duration of our break, approximately five minutes. For reference refer to MP3 recording 130120001.

After further interviewing from Detective MARSHALL I transported the subject to the Portneuf Medical Center where DNA evidence was collected by hospital staff. For reference to that duration at the hospital refer to digital recording 130120002. I transported the subject back to the Pocatello Police Station for further questioning by Detective MARSHALL. Detective MARSHALL then placed the subject under arrest and I transported the subject to Bannock County Jail where he was incarcerated for Rape, Idaho Code 18-6101.

End of report

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OFFICER: MARSHALL #5203 DICTATED: 01/20/13 @ 1300 HRS
INVESTIGATIVE TIME: 14 HRS
LAW INCIDENT #: 13-P01084
STENO INITIALS: PF
DATE & TIME TRANSCRIBED: 01/20/13 @ 1352 HRS

1. DOCUMENTS OF EVIDENCE TO BE FILED IN RECORDS:
(STATEMENTS, RIGHTS FORMS, LATENTS, PHOTOS, ETC.)

One Adult Rights Form signed by AMAN GAS
One Consent to Search form signed by AMAN GAS
Portneuf Medical Center Discharge Instructions for AMAN GAS
One notebook paper with the diagram of the residence that was drawn by AMAN GAS
Authorization for Release of Medical Information signed by AMAN GAS

2. NARRATIVE:

On 01/20/13 I was contacted by Pocatello Dispatch at approximately 0415 hours requesting I respond to the Pocatello Police Department to assist in a rape investigation. Upon my arrival to the Pocatello Police Department Sergeant BUCK requested that I interview the suspect in this case identified as AMAN GAS. The victim had been taken to the Portneuf Medical Center Emergency Room where Corporal BROWN was currently speaking with her. Gas was placed into an Interview Room in the Detective Division by Patrol at which point I made contact with GAS in the Interview Room. I informed GAS he was free to leave at any point and that he was not under arrest or being detained in any way. I also told him that if he did not wish to answer any of my questions or speak to me any further to just let me know.

I then began by asking GAS for his personal information. He provided this to me. He also indicated that he is originally from Somalia and he has been in the United States for approximately 13 years and is here on asylum. I then began asking GAS to go through his day yesterday. He stated he woke up at approximately nine or ten am (0900 or 1000 hours) and throughout the day he had been watching TV movies. He also stated that the subjects who were inside the residence were ANDREA OGOLLA as well as her mom that he indicted was MOKIE, ADRIAN SMART who also lives at the residence as well as him. He stated that at approximately 1700 hours RAUSHELLE came to the residence. He believed they were watching the This Is 40 movie or something like that. He stated he has met GOODIN-GUZMAN a few times in the past and she is OGOLLA'S friend. RAUSHELLE is identified as RAUSHELLE GOODIN-GUZMAN who is the victim in this incident.

GAS stated that a short time after arriving GOODIN-GUZMAN'S friend AADI who is identified as ABHISHEK DWIVDI picked her up sometime during the movie and she was gone for a couple of hours. GAS stated that since about 1700 hours they began drinking alcoholic beverages such as Blue Skyy vodka and they had consumed almost a whole bottle of Blue Skyy among everybody who had been at the residence. He stated that prior to GOODIN-GUZMAN'S leaving with DWIVDI she also drank two bottles of Corona beer. He stated he then watched Men in Black 3 and then a second movie he could not remember the name of. He described it as being Django and that was the movie they were watching when GOODIN-GUZMAN came back to the residence. He also stated that GOODIN-GUZMAN came back with a Bud Light in her hand and he watched her consume approximately six beers in less than an hour. He stated that after GOODIN-GUZMAN came back from being with DWIVDI she

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appeared to be more intoxicated than when she left and while they were watching movies she came over and sat down by him and at one point lay down on the couch by him and placed her head on his thigh while they watched a movie. He stated that at no point did she say anything to him but it felt like she was coming on to him.

GAS then said that around 2300 hours OGOLLA and he decided to go to Hooligan's Bar. He stated OGOLLA was talking about having GOODIN-GUZMAN go with them but he did not want her to go because he did not want to babysit her due to her level of intoxication. He stated he then left the residence with OGOLLA and was with OGOLLA at Hooligan's for a little while. When she left with some other friends GAS was able to get a ride home at about 0300 hours on 01/20/13. He stated he walked into the house through the kitchen door, walked into the living room, and noticed that GOODIN-GUZMAN was asleep on the couch near the entrance into the kitchen. He then went to the other end of the couch and lay down. He described this couch as being an L-shaped couch. I then requested he draw a picture of how the room was set up. A picture of this was placed into Records. I went through and labeled the drawing. GAS described how his head was compared to where GOODIN-GUZMAN was. I asked him how GOODIN-GUZMAN was positioned. He stated he did not know and he did not know if she was covered with any type of blanket. He also could not tell me if she was lying on her back or if she was lying on one of her sides. He stated he just looked over and noticed she was there and then lay down himself. He stated he had consumed a large amount of alcoholic beverages throughout the evening and he went to sleep fairly quickly. He stated he put a blue blanket on top of him and this was the blue blanket he normally uses to sleep with. He also stated that where he lay down is where he normally sleeps, indicating he does not have a bedroom at this residence.

I asked GAS if he touched GOODIN-GUZMAN in any way and he indicated that he did not. I then informed GAS that GOODIN-GUZMAN had been injured at some point during the evening and she was indicating he was the one who injured her. He asked how and I advised him the injury had occurred while he was attempting to have sex with her. GAS denied the allegation he had attempted to have sex with her, stating she was not his type and he did not want to be with her in any way. He also indicated that when he got home he took off his shoes and his shirt, lay down on the couch, and could not remember anything else until officers knocked on the door. He was adamant about this fact and would not provide any further details about what happened after he lay down on the couch to go to sleep.

At this point GAS then told me he did not wish to be at the Pocatello Police Department any further. I told him I would be right back with him and I left the room where I made contact with Corporal BROWN who was at Portneuf Medical Center with the victim. Corporal BROWN provided me with the information he had obtained from the victim, GOODIN-GUZMAN, and he also advised me that the SANE Nurse was currently inside the room with GOODIN-GUZMAN completing a sexual assault exam. Based on the information provided to me by Corporal BROWN I decided I would detain GAS at which point I then walked back into the Interview Room and advised GAS he was being detained. I then pulled out the Adult Rights Form. I read the Adult Rights Form to GAS asking him if he had any questions. He indicated he did not. I asked him if he was willing to speak to me and speak to me without a lawyer present. GAS had several questions that I was able to answer. I then allowed GAS to have a moment to think about whether he wanted a lawyer present or if he wished to speak with me without a lawyer.

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During this time I made contact with the Bannock County Prosecutor IAN SERVICE to request his assistance in completing a detention order for possible evidence that may still be located on GAS. I then went back into the Interview Room and asked GAS if he wished to speak to me without a lawyer present. GAS indicated he did wish to speak to me and that he wished to cooperate with me. I asked him if he would be willing to go through a penile swab for DNA evidence, advising him that by doing so it could rule out his involvement in this incident. He agreed to the swabbing at which point I made contact with Corporal BROWN who was still at Portneuf Medical Center and requested he make arrangements for a SANE Nurse to complete some evidence collection from GAS. Corporal BROWN was able to make arrangements at which point GAS was transported by Officer LAMBSON to the Emergency Room where GAS was placed into Room #10. Officer LAMBSON stayed with GAS the whole time. A SANE Nurse completed the exam. Based on the information I had obtained from Corporal BROWN that the suspect had placed his fingers inside of GOODIN-GUZMAN'S mouth, I requested that fingernail scrapings be taken as well as a swab of his penis area. Prior to any of this occurring, I had GAS sign a Consent to Search form. I explained the form to him prior to his signing it. He then signed the form giving us permission to complete the necessary evidence collection that we needed. Prior to the SANE Nurse going into the room with GAS I informed her that he was here voluntarily and if at any point he revoked his permission that she needed to stop and to let me know. At no point did this ever occur. The SANE Nurse completed her exam and provided me with the evidence requested in a sex assault kit which was placed into the evidence fridge at the Pocatello Police Department.

While at the hospital I made contact with the SANE Nurse who completed the sexual assault exam on GOODIN-GUZMAN. She informed me that GOODIN-GUZMAN had two small tears to her anus and another injury that started on the outside of the anus area and ended on the inside. She also indicated that while doing the exam she located a pubic hair that did not belong to GOODIN-GUZMAN in the area of her anus. This hair was collected by the SANE Nurse. The sexual assault kit as well as all of GOODIN-GUZMAN'S clothing were turned over to me from the SANE Nurse. I then transported them to the Pocatello Police Department where they were placed into evidence.

It was right at this same time that GAS' exam was completed. Officer LAMBSON then transported GAS back to the Pocatello Police Department at my request. Prior to the transport I asked GAS if I could ask him a few more questions. He indicated that would be fine. Once he arrived at the Pocatello Police Department he was placed back into the Interview Room. Upon my contact with GAS again I reminded him of his Miranda rights and he agreed to still speak to me in reference to this incident. I started confronting GAS about his story about not touching GOODIN-GUZMAN. GAS, throughout the whole interview, did not change his story, indicating he came home, went straight into the living room, took his shirt and shoes off, and lay down on the couch. Although I did speak to him about earlier in the evening when GOODIN-GUZMAN was coming on to him, he indicated she sat next to him very close and lay down, putting her head onto his lap. She did this a couple of times and she kept holding his hand. He also stated that she would hug him and hugged him approximately five times throughout the evening which was unusual. He stated the last time he had seen her prior to this was approximately six months ago. He also stated that at one point time she reached up and grabbed his hand and was holding his hand with her hand while she was lying on the couch with her head on his thigh and placed his hand up, while holding it, in the area of her chest. He stated at no point did he ever try to grab or grope while she was doing this and that he felt very

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uncomfortable and would look over at OGOLLA trying to get OGOLLA'S attention to show her what was going on. He then stated he had an agreement with OGOLLA that they would not date each other's friends due to the complications it could bring.

GAS then indicated he had overheard GOODIN-GUZMAN speaking to OGOLLA about having sex with DWIVDI earlier in the evening and that is why she left with DWIVDI. GAS stated he knew DWIVDI was a married man and believed that OGOLLA was sleeping with another married person as well. I again asked GAS if he tried to have sex with GOODIN-GUZMAN. Again he indicated that he did not and was adamant he just went to sleep and did not know what happened from the time he went to sleep until the officers knocked on his door.

Based on the information I had from the SANE Nurse from Corporal BROWN it was then determined that GAS would be charged with Rape. He was taken into custody for Rape and transported to the Bannock County Jail where he was incarcerated.

At this point this investigation continues.

End of report

SUPPLEMENTAL NARRATIVE:

OFFICER: Bates #5167 Sun Jan 20 16:16:30 MST 2013
Time Spent: 30 min.

On 01-20-2013 I presented the paperwork for this case to the Honorable Judge Steven Thomson. After reviewing the case, Judge Thomson issued a \$30,000.00 bond on GAS, charging him with the crime of Rape. I faxed the completed paperwork to the Bannock County Jail and called to confirm they had received it.

No further action taken.

End Supplement.
JB5167

SUPPLEMENTAL NARRATIVE:

OFFICER: SHUTES #5213

Dictated: 01-20-13 @ 0546 HOURS

Investigative Time: 1 Hour

Law Incident #: 13-P01084

Steno Initials: LNP

Date & Time

Transcribed: 01-22-13 @ 1400 HOURS

1. Documents of Evidence to be Filed in Records:

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(STATEMENTS, RIGHTS FORMS, LATENTS, PHOTOS, ETC.)

None at this time

2. NARRATIVE:

On 01-20-13, I responded with Officer LAMBSON, Corporal BROWN, Officer ELDRIDGE, Sergeant BUCK, and Officer PETERSON to 425 Hyde Avenue for the report of an assault. When I arrived on scene, my initial contact was with RICHARD SAMMONS, who told me that he received a message on Facebook from his daughter RAUSHELLE GOODIN-GUZMAN. He said that GOODIN-GUZMAN is not his biological daughter, but he has been with her mother since she was a small child, and he has helped raise her.

He told me that at about 1730 hours, he dropped GOODIN-GUZMAN off at 425 Hyde, where she was going to hang out with friends. He said that he then went to work at Hoku. SAMMONS told me that he was on Facebook and received a message on Facebook on his phone from GOODIN-GUZMAN. He said that he had an exchange with GOODIN-GUZMAN over Facebook, where she told him that she thought she had been raped. He was able to show me the message exchange that he had with GOODIN-GUZMAN on Facebook.

This exchange was captured on digital photographs. There are three digital photographs. The first photograph shows messages at 0402 hours, the next was at 0403 hours, and the third was also at 0403 hours, according to the time on the phone. The first picture is at 0402 hours according to the phone, showing the first five messages exchanged between GOODIN-GUZMAN and SAMMONS, the next picture shows the next seven messages exchanged between the two, and the last picture shows the last five messages in their conversation.

As I was speaking with SAMMONS, Corporal BROWN received a preliminary statement from GOODIN-GUZMAN, and she was transported by another friend to Portneuf Medical Center. She was accompanied by Corporal BROWN.

At this point in time, Officer ELDRIDGE, Sergeant BUCK, and I went downstairs, where we spoke with the residents ANDREA OGOLLA and AMAN GAS. Sergeant BUCK spoke with OGOLLA while I spoke with GAS. GAS was intoxicated as I was speaking with him. We asked him if he could tell us about what had happened tonight and what they had been doing. GAS was able to tell us that GOODIN-GUZMAN got dropped off earlier that night, and that shortly after she got dropped off, she left with an ex-boyfriend that he only knows by the name of AADI (unknown spelling or full name). GAS told me that he thought it was around 1930 hours when AADI picked GOODIN-GUZMAN up, and that she came back at around 2030 or 2100 hours. He said that she had been drinking when she came back and that when she came back, she came in by herself and AADI did not come in with her.

GAS said that they had been watching movies, and that they had planned on going out to Hooligan's. GAS said that he was sitting on the couch, and that GOODIN-GUZMAN tried to sit close to him, wanting to go with them to Hooligan's. GAS said that he told OGOLLA that GOODIN-GUZMAN was too intoxicated and that he did not want to "babysit" her at the bar. GAS said that he and OGOLLA left at about 2300 hours on 01-19-13, and went to Hooligan's. GAS told me that shortly after they were at Hooligan's, at approximately 2330 hours, OGOLLA left and he stayed there. He said that he got a ride home from a friend and arrived home on Hyde at about 0300 hours.

04/15/14
15:00

Bannock County Sheriff's Office
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He said that when he arrived home, GOODIN-GUZMAN was sleeping on one end of the couch in the front room, and that he passed out on the other end of the couch in the front room. He said that there was no physical contact between the two of them, and that he fell asleep as soon as he laid down and did not wake up until officers began knocking on the door and contacted him. He gave me the same story twice, which was recorded on a digital recorder and will be downloaded by Sergeant BUCK.

At this point in time, Sergeant BUCK spoke with GAS and asked him if he would come to the police station to give a statement. He was transported by Officer ELDRIDGE to the Pocatello Police Department, where an interview was conducted by Detective MARSHALL. There is nothing further to report at this time.

End of report.

SUPPLEMENTAL NARRATIVE:

OFFICER: MARSHALL # 5203

Dictated: 01/31/2013 @ 0944 HOURS

Investigative Time: 2.5 HOURS

Law Incident #: 13-P01084

Steno Initials: JLC

Date & Time

Transcribed: 01/31/2013 @ 1115 HOURS

1. DOCUMENTS OF EVIDENCE TO BE FILED IN RECORDS:
(STATEMENTS, RIGHTS FORMS, LATENTS, PHOTOS, ETC.)

None

2. NARRATIVE:

On 01/23/2013, I made contact with ANDREA OGOLLA in reference to this incident. I contacted OGOLLA at her residence at 425 Hyde in the basement apartment. OGOLLA briefly informed me about the night in question. OGOLLA indicated RAUSHELLE GOODIN-GUZMAN had been all over AMAN GAS throughout the evening but left the residence to have sex with another male subject. GOODIN-GUZMAN returned to the residence and made GOODIN-GUZMAN shower before going to the bars but GOODIN-GUZMAN passed out prior to them leaving for the bars.

I scheduled an interview for 01/24/2013 at 0800 hours, with OGOLLA but she did not make her scheduled appointment. On 01/24/2013, OGOLLA left me a message stating she lost the keys to her vehicle and would contact me when she found them but she did not contact me. On 01/25/2013, OGOLLA left a voice mail message for me stating she wished to speak with me in reference to this incident. I did not get the voice mail until I returned to duty on 01/29/2013. I scheduled another appointment to speak with OGOLLA on 01/30/2013 at 1300 hours. On 01/30/2013 at approximately 1315 hours, OGOLLA arrived at the Pocatello Police Department and I escorted her to an interview room in the detectives division. I informed OGOLLA she was free to leave at any point in time and she did not have to answer my questions. OGOLLA stated she understood and still wished to speak with me.

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15:00

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I obtained her current information and began to speak with her regarding the night in question. OGOLLA stated on 01/19/2013 at approximately 1700 hours, OGOLLA'S friend, GOODIN-GUZMAN, arrived at her residence. GOODIN-GUZMAN'S friend, ABHISHEK DWIVEDI, picked GOODIN-GUZMAN up from OGOLLA'S residence and they left at approximately 1915 hours and returned at 2000 hours. OGOLLA advised GOODIN-GUZMAN arrived back at the residence, brought a case of beer and observed they had been watching the movie Men in Black Three. I was further informed GOODIN-GUZMAN had been called earlier that day and they arranged for her to come to the residence and watch movies. OGOLLA advised she then discovered GOOD-GUZMAN had sex with DWIVEDI. OGOLLA stated GOOD-GUZMAN wanted to go to back to the bars with GAS and OGOLLA. OGOLLA told GOODIN-GUZMAN she needed to shower prior to them going back out because she had sex with DWIVEDI. GOODIN-GUZMAN showered, came back into the living and at approximately 2300 hours, passed out on the couch. OGOLLA stated GOODIN-GUZMAN had been trying to call other male subjects she was friends with and attempting to arrange to meet up with them to have sex. OGOLLA stated when GOODIN-GUZMAN becomes intoxicated, she becomes very, "Promiscuous." I asked her to describe it further. OGOLLA stated GOODIN-GUZMAN becomes a, "Whore when she is drunk."

At approximately 2315 hours, OGOLLA indicated she left the residence to go the bar with GAS and other friends. OGOLLA observed GOODIN-GUZMAN had passed out on the couch. OGOLLA advised she stayed at Hooligans for approximately thirty minutes but then left. OGOLLA arrived at her residence between 0000 hours and 0030 hours. OGOLLA stated her friend and she were responding into her bedroom but observed someone had been cooking in the kitchen. OGOLLA believed GOODIN-GUZMAN had been cooking because of the type of food that was made. OGOLLA stated GOODIN-GUZMAN always makes food with onions, refried beans, avocados and calls it a Mexican dish. OGOLLA noticed the bottle of the Vodka that had been approximately half full before she left was almost empty. OGOLLA advised earlier in the night when they were watching the movie, GOODIN-GUZMAN was, "All over AMAN." OGOLLA advised GOODIN-GUZMAN was, "Dry humping," GAS when he was sitting on the couch. I asked OGOLLA to describe that incident further. She stated GOODIN-GUZMAN straddled GAS' lap, moved her hips back and forth and put her hands and head in GAS' crotch area. OGOLLA indicated she observed GOODIN-GUZMAN do this several times when they were watching a movie. OGOLLA believed GOODIN-GUZMAN asked GAS to have sex with her on several different occasions. OGOLLA stated GOODIN-GUZMAN has not been to her apartment since approximately September because she allowed her juvenile daughter to consume alcoholic beverages. OGOLLA advised GOODIN-GUZMAN had not been allowed back to the residence.

I then spoke with OGOLLA about her relationship with GAS. OGOLLA stated she has been in love with GAS for the past seven years but they were not dating. OGOLLA indicated their relationship was a, "Friends with benefits," type of relationship. OGOLLA advised they have not had sexual intercourse for approximately one year and their relationship is now like, "Brother and sister".

I asked OGOLLA whom she brought back to the residence and she indicated it was a friend. I asked her where her friend went. OGOLLA stated her friend went into her room with her and they had sex. OGOLLA stated at approximately 0115 hours, the sexual intercourse ended and she went to bed. OGOLLA advised she knows GAS' routine very well. She advised GAS goes out drinking Saturday nights at Hooligans Bar. She advised GAS stays at the bar until it closes, grabs food and gets home around 0300 hours. OGOLLA stated she did not hear GAS come home that night.

04/15/14
15:00

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OGOLLA advised at approximately 0331 hours, GOODIN-GUZMAN came into her bedroom to retrieve her phone and used it to call DWIVEDI. OGOLLA stated there was a missed call at approximately 0341 hours, from DWIVEDI. OGOLLA advised GOODIN-GUZMAN indicated she called her father some time during the evening. OGOLLA looked at her call log and observed no phone call had been made to GOODIN-GUZMAN'S father. OGOLLA advised she observed a Facebook post that GOODIN-GUZMAN had posted. It should be noted on 01/20/2013, pictures were taken of the messages by officers on scene and downloaded to the sever.

OGOLLA further informed me that ADRIAN SMART went to the bathroom, opened the door slightly and heard GOODIN-GUZMAN puffing something but he could not tell what it was. OGOLLA advised she had contacted GOODIN-GUZMAN over Facebook and asked her what occurred. GOODIN-GUZMAN sent OGOLLA a message that described the incident, which was consistent with what she told Corporal BROWN at the hospital. I asked OGOLLA if she could email the Facebook messages to me that were in reference to this incident. At this time, I have not yet received the emails. I concluded my interview with OGOLLA and escorted her out of the building. For further details on this interview, see the recorded DVD that was placed into evidence. At this time, there is no further information for this report.

End of report.

SUPPLEMENTAL NARRATIVE:

OFFICER: MARSHALL #5203 Mon Jun 03 16:18:27 MDT 2013

INVESTIGATIVE TIME: 1.5 HOURS

On 06-03-13, I received an e-mail request from the Bannock County Prosecutors Office to attempt to contact ABHISHEK DWIVEDI to obtain a buccal swab. I responded to the DWIVEDI's residence and was not able to locate him home. I then responded to Virginia Transformer where DWIVEDI is employed. I was able to make contact with him and requested that he submit to a buccal swab. He gave me a verbal consent to complete the swab.

I completed a swab of the interior of DWIVEDI's mouth while using some nitrile examination gloves to cover my hands. The box that I pulled the gloves out of was new and I was careful about only handling the gloves near the bottom. The swabs were then secured inside a box used to contain swabs and then sealed it. I then placed the buccal swabs into evidence to be sent to the state lab for processing.

It should also be noted that ANDREA OGOLLA e-mailed me twelve pages of screen shots from her cell phone of the call of the night where the assault occurred as well as a Facebook conversation she had with RAUSHELLE GOODIN-GUZMAN. This was turned into records to be scanned into this report.

No further action taken at this time.

End of report.

SUPPLEMENTAL NARRATIVE:

04/15/14
15:00

Bannock County Sheriff's Office
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Incident #: 13-P01084

OFFICER: MARSHALL #5203 Wed Aug 07 10:45:05 MDT 2013

INVESTIGATION TIME: 30 MIN

At the request of the Bannock County Prosecutors Office, I verified with the Pocatello Evidence Technicians that the buccal swab taken from DWIVEDI had been sent to the Idaho State Lab on 06-07-13. As of this time, there is no new information.

End of report.

SUPPLEMENTAL NARRATIVE:

OFFICER: MARSHALL #5203 Tue Apr 15 11:38:39 MDT 2014

INVESTIGATIVE TIME: 1.5 HOURS

At the request of the Bannock County Prosecutors Office, I contacted Officer OLSEN, who was able to locate the I-Cop video of the transport of AMAN GAS from 425 Hyde to the Pocatello Police Department (PPD). I reviewed the video observed Officer ELDRIDGE complete a pat down search of GAS and then prior to GAS being placed into the patrol vehicle, he was advised that he was not under arrest and that he was being handcuffed for officer safety reasons. GAS was then handcuffed and placed into the back seat of the patrol vehicle and transported to the PPD. The video then cuts off prior to GAS being taken out of the patrol vehicle. A copy of this DVD was placed into evidence and a copy was provided to the Bannock County Prosecutors Office.

2013 -10- 30

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN FARAH GAS,

Defendant.

CASE NO. CR-13-864-FE

RESPONSE TO THIRD
DISCOVERY REQUEST

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the
Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Third Request for Discovery as follows:

REQUEST NO. 1. All DNA laboratory REPORTS

**RESPONSE NO. 1: Copies of DNA laboratory reports are located on the LAB
EVIDENCE DISC attached hereto and incorporated by reference.**

REQUEST NO.2. All DNA laboratory NOTES, from evidence intake to disposition.

RESPONSE NO. 2: Copies of DNA laboratory notes are located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 3. All forensic laboratory REPORTS, including presumptive testing and serology.

RESPONSE NO. 3: Copies of all forensic laboratory reports, including presumptive testing and serology are located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 4. All forensic laboratory NOTES, including presumptive testing and serology, from evidence intake to disposition.

RESPONSE NO. 4: Copies of all forensic laboratory notes, including presumptive testing and serology, are located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 5. List of any abbreviations and/or acronyms used in the laboratory notes.

RESPONSE NO. 5: A list of abbreviations/acronyms used in laboratory notes is located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 6. Any and all other items contained in the case file.

RESPONSE NO 6: Copies of other items contained in the case file are located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 7. STR data (including Y-STR data), if relevant.

RESPONSE NO 7: STR/Y-STR data are located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 8. DNA quantitation data.

RESPONSE NO 8: DNA quantitation data is located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 9. Legacy systems, if relevant.

RESPONSE NO 9: Legacy systems are not relevant.

REQUEST NO. 10. Current forensic biology and DNA protocols, including interpretations guidelines and database references.

RESPONSE NO 10: Forensic biology and DNA protocols, including interpretations guidelines and database, are located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 11. Summary of proficiency test results from each analyst who worked on the case.

RESPONSE NO 11: Summary of proficiency test results from each analyst who worked on the case is located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

REQUEST NO. 12. Copy of any logs that document unexpected results.

RESPONSE NO 12: There are no logs of unexpected results.

REQUEST NO. 13. Copy of all communications and communication logs between all analysts and any other parties.

RESPONSE NO 13: Copy of all communications and communication logs between all analysts and any other parties is located on the LAB EVIDENCE DISC attached hereto and incorporated by reference.

The following is a snapshot of the items located on the LAB EVIDENCE

DISC:

DVD RW Drive (D:) GAS LAB DISC | DVD RW Drive (D:) GAS LAB DISC | 073113RLN_M20130247 |

Burn to disc

Files Currently on the Disc (8)	Files Currently on the Disc (13)	
<input checked="" type="checkbox"/> 073113RLN_M20130247	<input checked="" type="checkbox"/> 073113RLN	<input type="checkbox"/> M20130247 Re-Extraction 2.ser
<input checked="" type="checkbox"/> DNA - BIOLOGICAL INFO	<input checked="" type="checkbox"/> 073113RLN_reinj	<input type="checkbox"/> M20130247 Re-extraction Genotypes
<input checked="" type="checkbox"/> 2013-05-02 Lab Rpt with attachments	<input checked="" type="checkbox"/> 080713SEGRN	<input checked="" type="checkbox"/> M20130247 Re-Extraction Table
<input checked="" type="checkbox"/> 2013-08-27 Lab Rpt with attachments	<input checked="" type="checkbox"/> 082113RLN	<input type="checkbox"/> M20130247 Re-Extraction.ser
<input checked="" type="checkbox"/> 2013-10-15 ISP Lab Letter re Disc	<input type="checkbox"/> M20130247 Genotypes	<input checked="" type="checkbox"/> M20130247 Table
<input checked="" type="checkbox"/> ISP Forencis Serv. Proficiency Test Eval	<input type="checkbox"/> M20130247 Re-extraction 2 Genotypes	<input type="checkbox"/> M20130247.ser
<input checked="" type="checkbox"/> Lab=Evidence Submission Receipt Forms	<input checked="" type="checkbox"/> M20130247 Re-Extraction 2 Table	
<input checked="" type="checkbox"/> Lab=Notes and Emails		

DVD RW Drive (D:) GAS LAB DISC | DNA - BIOLOGICAL INFO |

Burn to disc

Files Currently on the Disc (6)

<input checked="" type="checkbox"/> Biology QA Manual R15	<input checked="" type="checkbox"/> CODIS Methods R13
<input checked="" type="checkbox"/> Biology Training Manual rev 2	<input checked="" type="checkbox"/> Database Analytical Methods R14
<input checked="" type="checkbox"/> Biology_DNA_DNA DATABASE Abbreviations rev 0	
<input checked="" type="checkbox"/> Casework Analytical methods R14	

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 20th day of October, 2013.


JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 29th day of October, 2013, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☐ hand delivery
☒ fax - 236-7048


JANIECE PRICE

Exhibit "A"

Attachments to State's Responses

Title	Approximate Filing Date	Content
PART I:THE FOLLOWING RESPONSES (HIGHLIGHTED IN YELLOW) ARE PRODUCED WITH THE ATTACHMENTS AND DISKS		
Response to Request for Discovery	February 13, 2013	Response including Evidence DVD, Ogalla Interview DVD, Gas Interview DVD. Response 2g identifies the State's fact witnesses. Responses 2h and 2i do not correlate with Defendant's Discovery Motion. The State knowingly altered Defendant's Discovery Motion and responding to their alterations; it did not respond to Defendant's requests as identified. The Evidence DVD included the items identified in response 2d and 2e which included the medical records of Raushelle Guzman and Aman Gas. See attachments.
First Supplemental Response to Discovery Request	June 14, 2013	Response 2e supplemented to include items identified including lab report dated 5-10-2013; Response 2g: fact witness disclosure supplemented to include Jamie Femreite, ISP Forensic Lab; 2h response supplemented; response 2i supplemented.
Second Supplemental Response to Discovery Request	September 6, 2013	2d supplemented with additional lab result sent to defense counsel by email and dated August 27, 2013; 2g fact witness disclosure supplemented to include Rylene Nowlin. THE REPORT WAS SENT BY EMAIL AND NOT ATTACHED TO THE RESPONSE.

Third Supplemental Response to Discovery Request	April 16, 2014	Transport DVD.
Response to Third Discovery Request	October 29, 2013	Response with Lab Evidence Disk
PART II: THE FOLLOWING RESPONSES (HIGHLIGHTED IN BLUE) ARE NOT PRODUCED. THE RESPONSES ARE IN THE COURT FILE. THE RESPONSES DO NOT HAVE ATTACHMENTS		
Response to Second Discovery Motion	March 11, 2013	
Second Response to Second Discovery Motion	September 24, 2013	
Response to Fourth Discovery Request	April 9, 2014	
Response to Fifth Discovery Request	March 31, 2014	
Response to Sixth Discovery Request	April 11, 2014	
Response to Sixth Discovery Motion, Supplemental	May 6, 2014	
Response to Seventh Discovery Request	May 15, 2014	
Response to Eighth Discovery Request	May 8, 2014	
Response to Ninth Discovery Request	May 8, 2014	

Randall D. Schulthies
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 AUG 13 PM 4:13
BY KIL
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

v.

AMAN GAS,

Defendant,

) CASE NO. CR-2013-864-FE-A
)
) SECOND AFFIDAVIT OF
) KENT V. REYNOLDS IN SUPPORT
) OF MOTION TO SET ASIDE
) VERDICT AND MOTION FOR
) NEW TRIAL; AMENDED MOTION
) TO SET ASIDE VERDICT;
) AMENDED MOTION FOR NEW
) TRIAL; MOTION TO
) DISQUALIFY AND AMENDED
) MOTION TO DISQUALIFY
) KENT V. REYNOLDS
)

STATE OF IDAHO }

:ss

COUNTY OF BANNOCK }

KENT V. REYNOLDS, having been sworn upon his oath, deposes and says that:

1. That I am an attorney of record for the Defendant Aman Gas, and make this affidavit of

Second Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict and Motion for New Trial;
Amended Motion to Set Aside Verdict and Amended Motion for new Trial' Motion to Disqualify and
Amended Motion to Disqualify

Page 1

my personal knowledge and belief.

2. Attached hereto and incorporated herein by reference are the following materials:

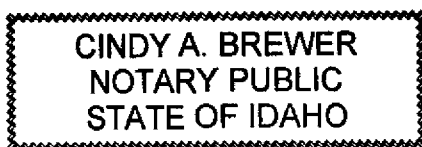
- A. Exhibit "A": Summary of State's Responses to Defendant's discovery requests/motions.
- B. State's Response to Defendant's Discovery Motion with Ogalla, Gas, and Evidence disks.
- C. State's First Supplemental Response to Discovery Request with attachments.
- D. State's Second Supplemental Response to Discovery Request with attachments.
- D1. August 27, 2013 report.
- E. State's Response to Third Discovery Request with DVD.
- F. State's Third Supplemental Response to Discovery with Transport DVD.


DATED this 13 day of August, 2014.



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

SUBSCRIBED AND SWORN before me this 13 day of August, 2014.




NOTARY PUBLIC FOR IDAHO
Residing at Pocatello
My Commission Expires: 5/10/2016

Second Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict and Motion for New Trial;
Amended Motion to Set Aside Verdict and Amended Motion for new Trial' Motion to Disqualify and
Amended Motion to Disqualify


Page 2

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13 day of August, 2014, I served a true and correct copy of the **SECOND AFFIDAVIT OF KENT V. REYNOLDS IN SUPPORT OF MOTION TO SET ASIDE VERDICT AND MOTION FOR NEW TRIAL; AMENDED MOTION TO SET ASIDE VERDICT; AMENDED MOTION FOR NEW TRIAL; MOTION TO DISQUALIFY AND AMENDED MOTION TO DISQUALIFY SECOND AFFIDAVIT OF KENT V. REYNOLDS** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Deputy Public Defender

Second Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict and Motion for New Trial;
Amended Motion to Set Aside Verdict and Amended Motion for new Trial' Motion to Disqualify and
Amended Motion to Disqualify

Page 3

check

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

2010 DEC -7 PM 4:23

BY DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

v.

WHITNEY RENAE LEWIS,

Defendant.

CASE NO. CR-2010-18616-FE

DISCOVERY MOTION

COMES NOW the Defendant, Whitney Renae Lewis, by and through her attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have

Discovery Motion

Page - 1

reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

- a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

- b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

- c. Please provide a copy of the defendant's prior criminal record.

- d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.

- e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting

Attorney has access, or are intended for use by the Prosecuting Attorney as evidence a trial, or obtained from the Defendant.

f. Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

g. Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

i. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and data for those opinions, and the expert witness's qualifications pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence.

j. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

k. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 7 day of December, 2010.



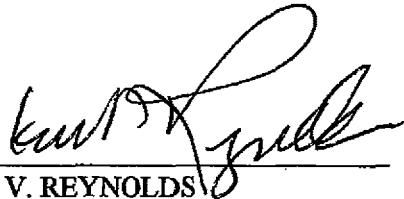
KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7 day of December, 2010, I served a true and correct copy of the **DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

MARK L. HIEDEMAN
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-10-18616-FE
Plaintiff,)	
	)	RESPONSE TO REQUEST
vs.	)	FOR DISCOVERY
)	
WHITNEY RENAE LEWIS,)	
)	
Defendant.)	
_____)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Request for Discovery as follows:

REQUEST NO. 1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control

RESPONSE - Page 1

of the prosecutor's staff and/ or others who have First Discovery Motion participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1a: None known at this time.

RESPONSE NO. 1b: None known at this time.

REQUEST NO.2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

REQUEST NO. 2a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: For statements made by the defendant, please refer to Pocatello Police Department police report, LI#10-P25812, attached hereto and incorporated by reference. The video may contain statements of the defendant, which is attached hereto and incorporated by reference.

REQUEST NO. 2b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There are no known co-defendants.

REQUEST NO. 2c. Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: The defendant's criminal history is attached hereto and incorporated by reference.

REQUEST NO. 2d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at the Preliminary Hearing and/or trial, or obtained from the Defendant.

RESPONSE NO 2d: Evidence which may be introduced at trial is as follows

911 Call – attached CD

Photos of the victim & defendant – attached CD

REQUEST NO. 2e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting First Discovery Motion Attorney has access, or are intended for use by the Prosecuting Attorney as evidence at the Preliminary Hearing and/or at trial, or obtained from the Defendant. J.

RESPONSE NO 2e: The following books, papers, documents, photographs, tangible objects, buildings or places are either attached hereto and incorporated by reference:

Any other items listed in Pocatello Police Department Offense Report No. 10-P25812, may be inspected by making arrangements with the law enforcement officer in charge of this investigation.

REQUEST NO. 2f Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO 2f: The following are physical/mental examinations, scientific tests or experiments pertaining to this matter:

RESPONSE - Page 3

None known at this time.

REQUEST NO. 2g. Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the Preliminary Hearing and/or trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following persons may be called to testify at hearing or trial in this matter:

- Mark L. Beason – 4050 N. 3600 W. Darlington ID
- Sabrina Fuller – 79 Driftwood
- Craig Huff – 79 Driftwood
- J. Farnes – Pocatello Police Dispatch
- R. Jenkins – Pocatello Police Department
- K Howe – Pocatello Police Department

At the present time, to the best knowledge of the plaintiff, only the aforementioned individuals with an "*" before their name have a record of felony convictions which are attached hereto and incorporated by reference.

REQUEST NO. 2h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO 2h: For statements made by witnesses, please see Pocaello Police Offense Report No. 10-P25812, attached hereto and incorporated by reference.

REQUEST NO. 2i. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney, which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

RESPONSE NO 2i: For reports and memorandum made by a police officer or

investigator, please see Pocatello Police Offense Report No. 10-P25812, attached hereto and incorporated by reference.

REQUEST NO. 2j. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: There are no known intercepted jail conversation at this time.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 10th day of December, 2010.


JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 10th day of December, 2010, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile


JANIECE PRICE

DEFENDANT'S COPY

MARK L. HIEDEMAN
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

2011-05-04

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-10-18616-FE
Plaintiff,)	
	)	SUPPLEMENTAL
vs.	)	RESPONSE TO REQUEST
	)	FOR DISCOVERY
WHITNEY RENAE LEWIS,)	
)	
Defendant.)	
)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Request for Discovery as follows:

RESPONSE NO 2g: Additional persons who may be called to testify at
hearing or trial in this matter, who will give expert testimony under rule 16(b)7 are as
follows:

RESPONSE - Page 1

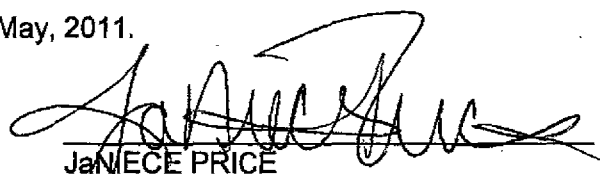
- Dr. Karen Neill – Idaho State University
- Robb Redford – A to Z Family Counseling

B. Robb Redford will testify as an expert in the field of Domestic Violence education and counseling. Mr. Redford will testify regarding information and knowledge concerning Domestic Violence education and counseling in relation to both an offender who commits domestic violence and a victim who is subjected to domestic violence. Mr. Redford also has information and knowledge concerning the nature and extent of a domestic violence offenders in utilizing isolation, power and control and both physical and mental coercion to commit violence on other individuals. In addition, Mr. Redford is expected to testify to his knowledge and training dealing with victims of domestic violence and a victim's response to an offender in a domestic violence or violence related relationship. He is also expected to testify about the relationship between violence and sex-role behaviors. Mr. Redford's curriculum vitae, setting forth his qualifications, is attached hereto. If Mr. Redford does any interviewing/examinations and/or offers more updated opinions, this disclosure will be supplemented as soon as is practical.

Dr. Karen Neill will testify as an expert in the field of Domestic Violence education and counseling. Dr. Neill will testify regarding information and knowledge concerning Domestic Violence education and counseling in relation to a victim who is subjected to domestic violence and/or violent relationships. Dr. Neill also has information and knowledge concerning the tools utilized to maintain isolation, power and control and both physical and mental coercion to commit violence on other individuals. In addition, Dr. Neill is expected to testify to her knowledge and training dealing with victims of domestic violence and a victim's response to an offender in a domestic violence or violence related relationship. She is also expected to testify to the lived experience of women who are battered as well as the impact of domestic violence on women. She is also expected to testify as to the reasons women stay, and/or return to their abusive partner. Dr. Neill's Curriculum Vitae setting forth her qualifications is provided herewith. If Dr. Neill does any interviewing/examinations and/or offers more updated opinions, this disclosure will be supplemented as soon as is practicable.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 9th day of May, 2011.


JANIECE PRICE
Deputy Prosecuting Attorney

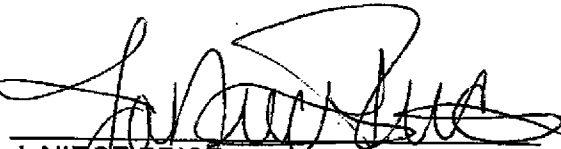
RESPONSE - Page 2

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 4th day of May, 2011, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile



JaNIECE PRICE

VITAE

Karen S. Neill Ph.D., R.N., SANE-A
ISU Campus Box 8101
Pocatello, Idaho 83209
e-mail: neilkare@isu.edu

Telephone:
Home: 851-0138
Work: 282-2102
Nursing License: N 15810

PROFESSIONAL EXPERIENCE

Fall semester 2010	Adjunct Faculty Member, College of Southern Idaho, Twin Falls Idaho
September 2009 – Present	Coordinator, Leadership Option Idaho State University School of Nursing, Graduate Program
2006 (August) – 2007 (May)	Interim Director for Research and Evaluation Idaho State University, School of Nursing (Note: Position not funded for continuation in the School of Nursing after May 2007)
1986 - Present	Idaho State University, School of Nursing Full Professor (F2002) Associate Professor (1996 - 2002) Coordinator; Rural Preceptor Option (1992 - 1998) Placement of nursing students in rural hospitals as well as serving as faculty supervisor for Leadership Management Practicum course completed by the students in the rural site. Prepare preceptors and students for clinical rotation in the rural hospital. Assistant Professor (1990 -1995) Instructor (1986 - 1989) Coordinate clinical and theory nursing courses, participate in research and committee activities, public service.
1994 - Present (July)	Tenure Status, Department of Nursing, Idaho State University
1994 - Present (December)	Graduate Faculty status, Idaho State University
2004 - 2006	Pocatello Women's Correctional Center Staff Nurse February 2004 to August 2006 – Per-diem status
1997 - 2006	Portneuf Medical Center, (Formerly Bannock Regional Medical Center) Pocatello, Idaho Clinical Staff Nurse May 2003 – present; Per Diem status, Emergency Room (SANE-A) 1997-2003 (May) Home Health Care, Per-diem status
1994 – 2006 (Dec)	Idaho Rural Health Education Center, Boise Idaho Consultant Facilitate interdisciplinary education in rural hospitals throughout Southeast Idaho through coordination of student experiences in the rural hospital setting, as well as in the ISU Senior HealthMobile health and wellness service delivery program. Serve as consultant on research and grant projects.

1993 - 1998	Progressive Staff, PRN. Pocatello, ID. Staff nurse in rural hospitals in the charge nurse/leadership management role; consultation; occasional status.
1991 - 1992	Idaho State University, Administration. Administrative Intern to the President, half-time.
1980 - 1995	Bannock Regional Medical Center, Pocatello, ID. Staff Nurse, Charge nurse role Pediatrics/PICU; 1985-1994 Occasional status 1980-1985 Full-time status

EDUCATION

1994	Ph.D. - Idaho State University, Pocatello, Idaho Department of Pharmaceutical Sciences Pharmacy Administration
1985	M.S. - Idaho State University, Pocatello, Idaho. Functional areas of expertise – education Clinical specialty - family nursing
1982	B.S. - Idaho State University, Pocatello, Idaho Generalist in nursing
1980	A.S. - Sierra College, Rocklin, CA Pre-nursing Licensed Practical Nursing licensure obtained.

CERTIFICATIONS

2005	Sexual Assault Nurse Examiner/Adults and Adolescents (SANE-A) International Association of Forensic Nurses (Expires 10/2011)
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PROFESSIONAL ACTIVITIES

02/2011	Appointed member; Idaho State University Division of Health Sciences Executive Council
2010	Developed and delivered Forensic Team Response to Sexual Assault, SART/SANE course. College of Southern Idaho Health Sciences Division. Adjunct faculty member, Fall 2010.
2010	Elected to Editorial Board, Journal of Forensic Nursing, the official journal of the International Association of Forensic Nurses, a quarterly peer reviewed publication. The journal's objective is to publish scholarly manuscripts and to expand empirical evidence important to the practice of forensic nursing <i>worldwide</i> .
2009	Expert Witness State Of Idaho State vs. Manuel Sanchez
2009	Coordinator, Leadership Tract. Idaho State University School of Nursing

2007-2009 Member; Saint Alphonsus Medical Center Nursing Research Advisory Committee, Boise Idaho.

2006- 2010 **Invited Manuscript Reviewer**; Journal of Allied Health.

2006 **Invited Participant**; Leadership in Rural Health Interprofessional Education and Practice. Institute sponsored by HRSA and the Office of Interprofessional Scholarship, Service and Education, Creighton University. Denver CO. (September 7-10, 2006).

2006 – **Present Invited Member**, Idaho Victim Assistance Academy (IVAA) Statewide Committee, Idaho Coalition Against Sexual and Domestic Violence (March 2006).

2005- 2006 **Invited Member**; Idaho Fatality Review Team, Idaho Coalition Against Domestic and Sexual Violence.

2005 - **Present Invited Member**; Idaho Supreme Court Domestic Violence Subcommittee of Children and Families in the Court.

2004- 2006 Member, Pocatello Women's Correctional Center (PWCC) Prison Rape Elimination Act (PREA) Implementation Team.

2004 - 2010 **Invited Member**, Manuscript Review Panel, Journal of Forensic Nursing

2004 - 2005 (November) Elected President, Bannock County Domestic Violence and Sexual Assault Task Force

2004 - **Present** Appointed by Governor Dirk Kempthorne, State of Idaho to the Idaho Council on Domestic Violence and Victim Assistance (ICDVVA), Region 6 Council Member. (Appointment; July 1, 2004 to present; Reappointed 07/08).

2004- 2006 Faculty Practice, Pocatello Women's Correctional Center, Pocatello, Idaho

2004 (March) Invited Review, Exploring Nursing Work Environments (text proposal). Jones and Bartlett Publishers, Sudbury Massachusetts.

2003- 2005 Faculty Practice. Portneuf Medical Center, Pocatello, Idaho Nursery/NICU, Per-Diem status/Sexual Assault Nurse Examiner, Emergency Room.

2003 - 2006 Elected Member; Board of Directors. Idaho Coalition Against Sexual Assault and Domestic Violence.

2002 - **Present** Appointed Member; State of Idaho Council on Domestic Violence and Victim Assistance (November) Batterer Treatment Oversight Committee
Committee Chair 2006-present

2001-**Present** Idaho Supreme Court Approved Domestic Violence/Battery Evaluator; Fifth Judicial District

2001-**Present** Member: International Association of Forensic Nurses

2000-2006 Sexual Assault Nurse Examiner (SANE-A), Portneuf Medical Center, Pocatello, Idaho
Sexual Assault Nurse Examiner (SANE-A), Region 5, Southeastern Idaho

1985 - Present Sigma Theta Tau
Theta Upsilon Chapter

PUBLICATIONS

*Refereed Journals

- *2010 Agado, B., Bowen, N., Paarman, C., Neill, K., et. al. Two methods of nonsurgical periodontal therapy on health related quality of life (HRQL) and illness for patients with chronic obstructive pulmonary disease (COPD): A randomized controlled clinical trial. *Journal of Dental Hygiene* (under review)
- *2010 Talbot, K., Neill, K., & Rankin, L. (2010). Rape accepting attitudes of university undergraduate students. *Journal of Forensic Nursing*, 6(4), 170-179.
- *2009 Snyder, F.J., Dundas, M.L., Kirkpatrick, C. & Neill, K. (2009). The use of herbal supplements and why they are perceived as safe by the elderly in southeast Idaho. *Journal of Nutrition for the Elderly*, 28, 81-95.
- *2009 Neill, K.S. & Powell, L. (2009) Mobile wellness care for rural older adults: Outcomes and Opportunities. *Journal of Gerontological Nursing*, 35(7), 46-52.
- *2007 Hayward, K., Steiner, S. & Sproule, K. (2007). Victims' perceptions of the effectiveness of a domestic violence treatment program for male perpetrators. *Journal of Forensic Nursing*, 3(2), 77-83.
- *2007 Neill, M., Hayward, K. & Peterson, T. Students' perceptions of the interprofessional team in practice through the application of servant leadership principles. *Journal of Interprofessional Care*, 21(4), 425-432.
- *2006 Kirkpatrick, C., Page, R. & Hayward, K. (2006) Nonvitamin, nonmineral, supplement use and beliefs about safety and efficacy among rural older adults in southeast and south central Idaho. *Journal of Nutrition for the Elderly*, 26(1/2), 59-82.
- *2005 Hayward, K. (2005). Facilitating interdisciplinary practice through mobile service provision to the rural older adult. *Geriatric Nursing*, 26(1), 29-33.
- *2005 Hayward, K., Kochniuk, L., Powell, L., & Peterson, T. (2005). Changes in student perceptions of interdisciplinary practice reaching the older adult through mobile service delivery. *Journal of Allied Health*, (34(4), 192-198.
- 2004 Hayward, K. (2003). Idaho SANE/SART Program Receives Federal Award. *On The Edge*. The Official Publication of the International Association of Forensic Nurses, 10(1), 10.
- 2004 Hayward, K. & Collaer-Muzzo, C. (2003, January/February). Starting a SANE/SART program: Opportunities, challenges, and rewards. *Forensic Nurse*, 13-14, 24.

- *2003 Hayward, K. S. & Weber, L. (2003). A community partnership to prepare nursing students to respond to domestic violence. *Nursing Forum*, 38(3), 5-10.
- *2000 Hayward, K.S., & Pehrson, D.E. (Fall 2000) Interdisciplinary action supporting sexual assault prevention efforts in rural elementary schools. *Journal of Community Health Nursing*, 17(3), 141-150.

OTHER SCHOLARLY ACTIVITIES

- 2010 Developed and coordinated Forensic Team Response to Sexual Assault SART/SANE course, College of Southern Idaho (Adjunct Faculty member)
- 2010 Selected academic faculty member of the 2010 (June) Idaho Victim Assistance Academy (IVAA) held on the Boise State University campus. Sexual Violence.
- 2009 Selected academic faculty member of the 2009 (June) Idaho Victim Assistance Academy (IVAA) held on the Boise State University campus. Sexual Violence.
- 2008 Selected academic faculty member of the 2008 (June) Idaho Victim Assistance Academy (IVAA) held on the Boise State University campus. Contributor of chapter for IVAA Manual on *Rural and Remote Victims* for the Idaho Victim Assistance Academy.
- 2007 Selected academic faculty member of the 2007 (June) Idaho Victim Assistance Academy (IVAA) held on the Boise State University campus. Co-contributor for chapter on *Sexual Violence* for the Idaho Victim Assistance Academy.
- 2004 -2006 Development and implementation of the first SART/SANE course in the State of Idaho held on the Idaho State University Campus January 15-17, 23 and 24, 2004; January 11-15, 2005; January 9-13, 2006 (ISU/BSU campus), October 23-27, 2006, (Nampa Civic Center).
- 2003-2005 Development of Batterer Intervention Treatment Program Standards, State of Idaho as an appointed member, Batterer Treatment Oversight Committee, Idaho Council on Domestic Violence and Victim Assistance (ICDVVA). Minimum Standards for Domestic Violence Batterer Treatment, State of Idaho approved by the ICDVVA on 03/08/05.

RESEARCH IN PROGRESS

- 2010 Perceived Risk, Severity of Abuse, Expectations and Needs of Women Experiencing Intimate Partner Violence
- 2009 Profile of Male Individuals Arrested for Domestic Battery given pro-arrest policies

GRANTS IN PROGRESS

Note: Grant author or co-author (indicated) on all grant awards presented herein;

GRANTS COMPLETED

Note: Grant author or co-author (indicated) on all grants presented herein;

- 2010 SART/SANE Forensic Team Response to Sexual Assault course, College of Southern Idaho. Funded by Community Health Improvement Grant, Twin Falls County, Idaho. \$6,000.00

- 2006-2007 Powell, L. & Hayward, K. Senior HealthMobile Project. Department of Health and Human Services. Quentin N. Burdick Interdisciplinary Grant Program. (Awarded 04/06/06; to December 30, 2007) (\$118,658)
- 2003-2007 Hayward, K. (2003). Development of a Regional Sexual Assault Nurse Examiner (SANE), Sexual Assault Response Team (SART). U.S. Department of Health and Human Services. Rural Health Outreach Program. (Awarded 05/01/03; to 04/30/07) (\$452,622.00).
- 2003-2006 Powell, L. & Hayward, K. Senior HealthMobile Project. Department of Health and Human Services. Quentin N. Burdick Interdisciplinary Grant Program. (Awarded 09/30/03; to July 1, 2006) (\$747,106.00)
- 2001/2002 Hayward, K. AARP Senior HealthMobile Grant. Awarded, \$8000.00
2002/2003 (\$2000.00 awarded each academic year)
2003/2004
2004/2005
- 2003 Hayward, K. (2003). Minneapolis Medical Research Foundation Grant. Idaho State University and Portneuf Medical Center Regional Partnership SANE/SART program, participant SANE-SART U.S. Website Team Project. (Awarded 05/07/03) (\$1152.00).

PROFESSIONAL PRESENTATIONS, INTERNATIONAL

- 2007 Leadership in Interprofessional Education and Clinical Practice. Beyond the Borders: International Nursing Education in the 21st Century. Royal College of Nursing. July 5-8, 2007. Brighton, London (paper accepted for workshop).
- 2006 Changes in Student Perceptions of Interdisciplinary Practice Reaching the Older Adult through Mobile Service Delivery. 1st Nurse Education International Conference. Developing Collaborative Practice in Health and Social Care Education. Vancouver, British Columbia. May 14-16, 2006. (Podium Session)
- 2006 Interprofessional Practice in Mobile Geriatric Wellness Care: Do Students' Perceptions Change through Service Learning? Third International All Together Better Health Conference: Challenges in Education and Practice. Imperial College, London. April 10-12, 2006 (Podium Session)

PROFESSIONAL PRESENTATIONS, OUT OF STATE

- 2009 Forensic Issues and Advancements. Criminal Justice Institute, University of Arkansas. Funded Institute, Office on Violence Against Women, Department of Justice. Spokane, WA. August 25, 2009. **Invited presentation**
- 2008 Offender Accountability: Addressing Perpetrator Responsibility and Victim Safety .16th Annual Scientific Assembly of the International Association of Forensic Nursing. Impacting Health and Justice Across the Lifespan. Dallas TX. September 17. (Podium Session).
- 2007 Interprofessional Practice in Mobile Care of the Rural Older Adult: Change in Students' Perceptions. Western Institute of Nursing. Portland OR. April 12-14. (Poster)

- 2007 A Comparative Exploration of the Needs and Priorities of Older Adults and Community Leaders in Rural America. 2007 Joint Conference of the American Society on Aging and the National Council on Aging. Chicago; March 7-10. (Podium Session)
- 2007 Students' Perceptions of the Interprofessional Team in Practice: Application of Servant Leadership in Community Based Care. 20th Annual Pacific Nursing Research Conference. Honolulu, HI. March 22-24. (Podium Session)
- 2006 An Effective Academic-Community Partnership Reaching the Older Adult Through Mobile Service Delivery. Sixth Annual Rural Health Conference "It's All About Access" sponsored by the Wyoming Primary Care Association, Cheyenne Wyoming. August 16-18, 2006. (Invited Podium Session)
- 2006 Joint Conference of the National Council on the Aging and the American Society on Aging. Invest in Aging. Strengthening Families, Communities, and Ourselves. Anaheim, CA. March 16-19, 2006. (Program Exchange)
- 2005 Addressing Domestic Violence in the Primary Care Setting. 5th Annual Wyoming Rural Health Conference. Casper Wyoming. April 27-29, 2005. (Podium Session)
- 2005 Supporting Vitality of the Rural Older Adult through Mobile Wellness Services: Outcomes and Opportunities. 2005 Joint Conference of the American Society on Aging and the National Council on Aging. Philadelphia. March 10-13, 2005. (Podium Session)
- 2004 Idaho State University (ISU) Senior HealthMobile. Rural Health on Wheels. Graying of the North Summit. The Center for Economic Development, California State University, Chico CA. November 4th, 2004. **Invited Podium Session.**
- 2004 Addressing Offender Accountability through Batterer Intervention and Coordinated Community Response. 2004 Family Violence Prevention Fund National Conference on Health Care and Domestic Violence. Health Consequences Over the Life Span. Boston, MA. October 22-24, 2004. Podium Session
- 2004 Reaching Seniors Where They Are: The ISU Senior HealthMobile. 4th Annual Wyoming Rural Health Conference, Building on Success – Creative Solutions in Rural Health. Sheridan, Wyoming. May 5-6, 2004. **Invited Podium Session.**
- 2004 Community Building and Collaborative Action: Bridging Academia and Rural Culture through Interdisciplinary Mobile Service Delivery to the Older Adult. Lessons Learned. 2004 Joint Conference of the American Society on Aging and the National Council on the Aging. San Francisco, Ca. April 14-17, 2004. Podium Session

PROFESSIONAL PRESENTATIONS, IN STATE

- 2010 Sexual Violence: Idaho Victim Assistance Academy. Boise State University. 06/16/10. **Invited Podium Session.**
- 2010 Sexual Violence. Presented at National Crime Victim's Rights Week. Boise State University. 04/21/10. **Invited Podium Session**

- 2010 Danger Assessment in Domestic Violence Cases. Idaho Trauma Nurse Network. Idaho State University. 01/21/10. **Invited Podium Presentation**
- 2009 Sexual Violence: A Public Health Issue. Presented at the Idaho Victim Assistance Basic Academy, Boise State University Campus. 04/17/09. **Invited Podium Presentation.**
- 2009 Sexual Violence. Presented at 2009 National Crime Victim's Rights Week, Boise State University. 04/29/09. **Invited Podium Presentation**
- 2008 Making Evidence Based Practice a Reality; Continuing Education Seminar through the School of Nursing, Idaho State University. Portneuf Medical Center. 05/15/08
- 2008 Effective Response for Rural and Remote Victims of Violence. Presented at the Idaho Advanced Victim Assistance Academy. 06/12/08. **Invited Podium Session**
- 2008 Effective Response for Rural and Remote Victims of Violence. Presented for Victim's Rights Week, Boise State University. 04/17/08. **Invited Podium Session**
- 2008 Ethics and Sexual Assault Response. Presented at the Idaho Summit on Sexual Assault: Your Role in Prevention and Response. Sponsored by the Idaho Coalition Against Sexual & Domestic Violence and the Idaho Teen Dating Violence Awareness & Prevention Project. Boise Centre on the Grove. 04/03/08. **Invited Panel Participant**
- 2008 Effective Services for Victims of Sexual Violence; Critical Linkage of Human, Social & Health Care Systems. Presented at the Idaho Summit on Sexual Assault: Your Role in Prevention and Response. Sponsored by the Idaho Coalition Against Sexual & Domestic Violence and the Idaho Teen Dating Violence Awareness & Prevention Project. Boise Centre on the Grove. 04/03/08. **Invited Podium Session**
- 2007 Sexual Violence. Presented at the Idaho Victim Assistance Academy, Sponsored by the Idaho Coalition Against Sexual & Domestic Violence. Boise State University campus. 06/13/07. **Invited Podium Session.**
- 2007 Sexual Violence. Presented during Victim's Rights Week, Boise State University. Boise State University Campus. 04/25/07. **Invited Podium Session**
- 2006 Balancing Research, Teaching and Scholarship. Panel at the Kasiska College of Health Professions Research Day. ISU Campus. 04/06/06. **Invited Panel Participant**
- 2005 Development of Batterer Treatment Program Standards, State of Idaho Batterer Treatment Program Oversight Committee. *Three Days in June* conference sponsored by the Idaho Council on Domestic Violence and Victim Assistance. June 7-9. Boise, Idaho. **Invited panel participant**
- 2005 Addressing Domestic Violence and Sexual Assault: An Organizational Imperative. Rural Nursing Network. Bingham Memorial Hospital, Blackfoot Idaho 03/17/05. Podium Session.
- 2005 Sexual Assault and Domestic Violence. The Minidoka and Cassia Community Task Force Against Domestic Violence. Burley, Idaho 02/28/05. Podium Session.

CONTINUING EDUCATION

- 2011 2011 Doctoral Education Conference. Sponsored by the American Association of Colleges of Nursing. January 26-29, San Diego CA.
- 2010 International Association of Forensic Nursing Scientific Assembly. Ending Violence: Leading the Health Care Response. Pittsburg, PA. October 27-30.
- 2010 An Overview of DFSA SANE/SAFE/SART Protocol I. Office for Victims of Crime. RTI International webinar. 09/01/10. (2 contact hours).
- 2010 SART Case Review webinar. SAFETA. International Association of Forensic Nurses. 08/24/10. (90 minutes)
- 2010 Forensic Issues for Nurses-Elder Abuse. Medscape. 09/14/09 (1 contact hour).
- 2010 Two Days in June Conference on Crime Victim Assistance, sponsored by the Idaho Council on Domestic Violence and Victim Assistance. 06/08/10 – 06/09/10.
- 2009 Forensic Issues for Nurses-Elder Abuse. Medscape. 09/14/09 (1 contact hour).
- 2009 Two Days in June, Promoting Peace in Domestic Relationships. Idaho Council on Domestic Violence and Victim Assistance Boise, Idaho. 06/08/09-06/09/09.
- 2008 International Association of Forensic Nursing 16th Annual Scientific Assembly. Forensic Nursing. Impacting Health and Justice Across the Lifespan. Dallas, TX. September 17-20, 2008.
- 2008 Two Days in June. Sponsored by the Idaho Council on Domestic Violence and Victim Assistance. CDA, Idaho. 06/02/08 to 06/03/08.
- 2008 Idaho Nurse Educator's Conference: Connecting Our Crossroads. Sponsored by Boise State University and Northwest Nazarene University, Boise, Idaho. 03/12/08 to 03/14/08.
- 2008 From Ideology to Inclusion: Evidence-Based Policy and Intervention in Domestic Violence. Sponsored by the California Alliance for Families and Children. Sacramento, CA. 02/15/08 to 02/16/08.
- 2008 Mini Domestic Violence Summit. Sponsored by the Bannock County Family Law Section. Pocatello, Idaho. 01/18/08.
- 2007 Faculty Nurse Executive Summit. Sponsored by Nursing Economics. Scottsdale, AZ. 11/29/07 to 12/01/07.
- 2007 Idaho Summit on Domestic Violence: Creating Safety for Immigrant Victims. Boise, Idaho. Sponsored by the Idaho Coalition Against Domestic and Sexual Violence. 10/17/07
- 2007 "Two Days in June" Promoting Peace in Domestic Relationships. Boise, Idaho. 06/06/07-06/07/07.
- 2007 Western Institute of Nursing. Portland OR. April 12-14.

- 2007 20th Annual Pacific Nursing Research Conference. Honolulu, HI. March 22-24.
- 2006 Idaho Nurse Educator's Conference. Learner Centered Education: Meaningful Learning. Idaho State University, Pocatello, Idaho. September 20-22.
- 2006 Idaho Summit on Domestic Violence. Victim Safety: Your Role in Understanding and Assessing Dangerousness. Sponsored by the Idaho Coalition Against Sexual and Domestic Violence. October 12.
- 2006 **Invited Participant**, Leadership in Rural Health Interprofessional Education and Practice. Institute sponsored by HRSA and the Office of Interprofessional Scholarship, Service and Education, Creighton University. Denver CO. September 7-10.
- 2006 Joint Conference of the National Council on the Aging and the American Society on Aging. Invest in Aging. Strengthening Families, Communities and Ourselves. March 16-19, 2006. Anaheim, CA.
- 2005 Three Days in June Annual Conference of the Idaho Council on Domestic Violence and Victim Assistance. June 7-9. Boise, Idaho.
- 2005 Addressing Domestic Violence in the Primary Care Setting. 5th Annual Wyoming Rural Health Conference. April 27-29. Casper, Wyoming.
- 2005 2005 Joint Conference of the American Society on Aging and the National Council on Aging. March 10-13. Philadelphia.

COMMUNITY SERVICE

- 2004 - **Present** **Appointed** by Governor Dirk Kempthorne, State of Idaho to the Idaho Council on Domestic Violence and Victim Assistance (ICDVVA), Region 6 Council Member. (Appointment; July 1, 2004 to July 1, 2008; Reappointment July 1, 2008 to July 1, 2011)
- 2004- **Present** Sexual Assault Nurse Examiner consultant, liaison with law enforcement, advocates, court personnel, and community.
- 2004- **Present** Idaho Supreme Court Approved Domestic Assault/Battery Evaluator.
- 2002 - **Present** Appointed Member; State of Idaho Council on Domestic Violence and Victim Assistance (November)
Committee for the Oversight of Batterer Treatment Standards
Committee Chair 2006-present
- 2001- 2006 Bannock County Sexual Assault/Domestic Violence Task Force; Member.
Elected Vice President (F02); Elected President Spring 05
- 2001- 2006 Elected Member, Board of Directors of the Family Services Alliance of Southeast Idaho. Monthly meetings.

HONORS, AWARDS

- 2008 Governors Appointment, Idaho (State) Council on Domestic Violence and Victim Assistance July 2008 to July 2011.

2007 Department of Health and Human Services, Administration on Aging. 2007 Choices for Independence Program Champions Award, ISU Senior HealthMobile program.

COMMITTEES – UNIVERSITY

2009 University Violence Against Women Task Force
2008 University Tenure and Promotion Task Force Committee
2002-2005 Judicial Board
2000 - 2002 University Distinguished Public Service Award Committee

COMMITTEES – DIVISION of HEALTH SCIENCES

2011 Division of Health Sciences Executive Council

COMMITTEES - COLLEGE OF HEALTH RELATED PROFESSIONS

2000- Present Promotion and Tenure (Chair 2005-2006)
2000 - Present Scholastic Appeals Committee (Chair 2001-2005)

COMMITTEES - SCHOOL OF NURSING

2006 - Present Faculty Development Council (Chair 2006-2007, 2010)
2001 - 2006 Research and Faculty Development
2000 - Present Promotion and Tenure
1994 - Present Graduate Council
Faculty Council
2010 Oral Examination Chair or member, ISU School of Nursing (8 total)
2010 Comprehensive Examination Scoring, ISU School of Nursing (9 total)
2009 Oral Examination, Chair or member, ISU School of Nursing (13 total)
2009 Comprehensive Examination Scoring, School of Nursing (10 total)
2007 and 2008 Comprehensive and Oral Examination, ISU School of Nursing

DOCTORAL COMMITTEES

2010 Departmental Appointee
Student: Rebecca Pender
Counselor Education
2009 College Appointee
Student: Erin Brinkley
Counselor Education

THESIS COMMITTEES

2009 GFR
Student: Brooke Algado
Dental Hygiene
Title: Health Related Quality of Life following Periodontal Instrumentation for Patients with Chronic Obstructive Pulmonary Disease and Periodontitis
2009 GFR Oral Exam Psychology Department (Hilary Stratton)
2008 GFR
Student: Kimberly Talbot
Department of Health and Nutrition Sciences
Title: Rape Accepting Attitudes of ISU Undergraduate Students
Successfully Defended: 12/08 (Published, Journal of Forensic Nursing 2010)

COURSES TAUGHT

Fall 2005

Project Director (ISU Senior HealthMobile)
(Awarded Federal Grant)
Principal Investigator (SANE/SART Regional Program)
Project Chair: Duane Connor
Second Committee Member: Cindy Christenson
Faculty Practice Pocatello Women's Correctional Center (PWCC)
Preceptor N423 Leadership Students in the PWCC

Spring 2006

N610 Nursing Research (on line, using Web-CT) 3 cr. (18 students)
Project Director (ISU Senior HealthMobile)
(Awarded Federal Grant)
Principal Investigator (SANE/SART) (Awarded Federal Grant)
Thesis Chair: Kathy Sproule (published)
Faculty Practice Pocatello Women's Correctional Center (PWCC)
Preceptor N423 Leadership Students in the PWCC

Fall 2006

Administrative Assignment (Interim Director of Research and Evaluation)
Project Director (ISU Senior HealthMobile)
(Awarded Federal Grant)
Principal Investigator (SANE/SART Program) (Awarded Federal Grant)
Project Director, ISU Senior HealthMobile

Spring 2007

Administrative Assignment (Interim Director of Research and Evaluation)
N610 Nursing Research (on line, using Moodle) 3 cr. (38 students)
Principal Investigator (SANE/SART Program)
(Awarded Federal Grant)
Comprehensive Exams/Graduate Students (7)
Project Director, ISU Senior HealthMobile

Fall 2007

N600 Theoretical Foundations for Nursing Practice (on line, Moodle) 3 cr. (50 students)
N612 Health Care of Rural Communities (on line, Moodle) 3 cr. (34 students)
Project Director, ISU Senior HealthMobile

Spring 2008

N610 Advanced Evidence Applications (3 cr.-faculty lead in the course) (on line) (45 students)
N653 Organizational Behavior and Health Care Systems (3 cr.) (on line) (6 students)
Project Director ISU Senior HealthMobile
Administrative Assignment (University Tenure and Promotion Task Force Committee)

Fall 2008

N612 Health Care in Rural Communities (Course Coordinator) 6 cr. (45 students)
N652 Administrative Approaches to Nursing Leadership 3 cr. (1 student)

Spring 2009

N610 Advanced Evidence Applications (Course Coordinator)	5 cr. (43 students)
N621 Advanced Nursing Roles	2 cr. (2 students)
N653 Organizational Behavior in the Health Care System 3 cr.	3 cr. (1 student)

Fall 2009

N612 Health Care of Rural Communities (2 sections) 7 credits (Course Coordinator) (44 students)	
N655 Advanced Leadership	3 credits (Course Coordinator) (3 students)
N655L Advanced Leadership Lab	2 credits (Course Coordinator) (3 students)

Spring 2010

N610 Advanced Evidence Applications (1 ½ sections) 4 credits (Course Coordinator) (54 students)
N656 Advanced Leadership Practicum (1 section) 4 credits (Course Coordinator) (3 students)
N621 Advanced Nursing Roles (1 section) 2 credits (3 students)
Chair – Faculty Development Council

Fall 2010

N612 Health Care of Rural Communities (2 sections) 3 credits (Course Coordinator) (50 students)
Orientation of new faculty member into the course
N652 Administrative Approaches to Nursing Leadership (1 section) (3 credits) (8 students)
Review Team Chair: Dr. Molinari for Promotion and Tenure
Member Executive Council, Division of Health Sciences
Faculty Development Council

Spring 2011

N610 Advanced Evidence Applications (1 section) 4 credits (Course Coordinator) (48 students)
N653 Organizational Behavior in a Changing Health Care System (3 credits) (8 students)
Appointed Member, Division of Health Sciences Executive Council
Faculty Development Council

04/09/11 KN

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Assistant Chief Deputy Public Defender
Bar No. #3739

Attorneys for Defendant

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff

v.

WHITNEY LEWIS,

Defendant.

CASE NO. CR-2010-18616-FE-B

FIRST MOTION IN LIMINE

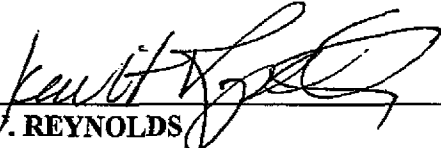
COMES NOW the Defendant, Whitney Lewis, by and through her attorney, Kent V.

Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 401 and 701, *Iet. seq.*,
I.R.E. and moves this Court for its order excluding the testimony of Robb Redford and Dr. Karen
Neil.

Defendant gives notice of her intent to present witnesses and tesimony in support of said
motion.

Oral argument is requested.

DATED this 24 day of May 2011.



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24 day of May 2011, a true and correct copy of the foregoing **FIRST MOTION IN LIMINE** was served upon the Bannock County Prosecuting Attorney, by depositing a copy of the same in the Prosecutor's in-box, Bannock County Courthouse, Pocatello, Idaho.



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

FILED
CLINTON COUNTY
2018 DEC -8 PM 4:19

BY DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

CASE NO. CR-2010-18681-FE

DISCOVERY MOTION

Defendant.

1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have

Page - 1

reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
 - b. All evidence which would tend to reduce the punishment in this case.
2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:
- a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.
 - b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.
 - c. Please provide a copy of the defendant's prior criminal record.
 - d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.
 - e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting

Attorney has access, or are intended for use by the Prosecuting Attorney as evidence a trial, or obtained from the Defendant.

f. Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

g. Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

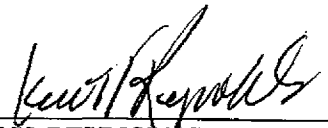
i. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and data for those opinions, and the expert witness's qualifications pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence.

j. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

k. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 8 day of December, 2010.

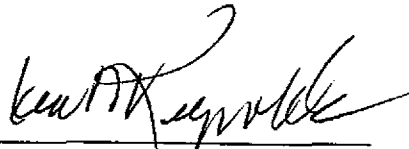

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8 day of December, 2010, I served a true and correct copy of the **DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

112
DEFENDANT'S COPY

MARK L. HIEDEMAN
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

DEC 16 2010

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-10-18681-FE
Plaintiff,)	
	)	RESPONSE TO REQUEST
vs.	)	FOR DISCOVERY
)	
JOSHUA N. HANSEN)	
)	
Defendant.)	
)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Request for Discovery as follows:

REQUEST NO. 1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/ or others who have First Discovery Motion participated in the investigation or evaluation of this case who either regularly report, or with reference

RESPONSE - Page 1

to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1a: None known at this time.

RESPONSE NO. 1b: None known at this time.

REQUEST NO.2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

REQUEST NO. 2a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: For statements made by the defendant, please refer to Bannock County Sheriff's Office report, LI#_10-B4952, attached hereto and incorporated by reference. The video may contain statements of the defendant, which is attached hereto and incorporated by reference.

REQUEST NO. 2b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There are no known co-defendants.

REQUEST NO. 2c. Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: The defendant's criminal history is attached hereto and incorporated by reference.

REQUEST NO. 2d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting

RESPONSE - Page 2



Attorney has access, or are intended for use for evidence at the Preliminary Hearing and/or trial, or obtained from the Defendant.

RESPONSE NO 2d: Evidence which may be introduced at trial is as follows

- Photos taken of the alleged victim by Detective Ballard, which have been requested by the State and will be provided to Defendant upon receipt
- Kitchen towel in evidence marked P0096589
911 call, also requested by the State and will be provided to the Defendant upon receipt
- Photos of residence including kitchen and living room where the alleged crime took place, which have been requested by the State and will be supplied upon receipt.
- Photos of the defendant, which have been requested by the State and will be supplied upon receipt

REQUEST NO. 2e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting First Discovery Motion Attorney as access, or are intended for use by the Prosecuting Attorney as evidence at the Preliminary Hearing and/or at trial, or obtained from the Defendant. J.

RESPONSE NO 2e: The following books, papers, documents, photographs, tangible objects, buildings or places are either attached hereto and incorporated by reference:

The towel is in evidence and may be obtained by making appointment with evidence tech at the Bannock County Sheriff's Office.

Any other items listed in Bannock County Sheriff's Offense Report No. 10-B4952, may be inspected by making arrangements with the law enforcement officer in charge of this investigation.

REQUEST NO. 2f Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney,

RESPONSE - Page 3

Attorney has access, or are intended for use for evidence at the Preliminary Hearing and/or trial, or obtained from the Defendant.

RESPONSE NO 2d: Evidence which may be introduced at trial is as follows

- Photos taken of the alleged victim by Detective Ballard, which have been requested by the State and will be provided to Defendant upon receipt
 - Kitchen towel in evidence marked P0096589
- 911 call, also requested by the State and will be provided to the Defendant upon receipt
- Photos of residence including kitchen and living room where the alleged crime took place, which have been requested by the State and will be supplied upon receipt.
- Photos of the defendant, which have been requested by the State and will be supplied upon receipt

REQUEST NO. 2e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting First Discovery Motion Attorney as access, or are intended for use by the Prosecuting Attorney as evidence at the Preliminary Hearing and/or at trial, or obtained from the Defendant. J.

RESPONSE NO 2e: The following books, papers, documents, photographs, tangible objects, buildings or places are either attached hereto and incorporated by reference:

The towel is in evidence and may be obtained by making appointment with evidence tech at the Bannock County Sheriff's Office.

Any other items listed in Bannock County Shierff's Offense Report No. 10-B4952, may be inspected by making arrangements with the law enforcement officer in charge of this investigation.

REQUEST NO. 2f Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney,

the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO 2f: The following are physical/mental examinations, scientific tests or experiments pertaining to this matter:

None known

REQUEST NO. 2g. Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the Preliminary Hearing and/or trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following persons may be called to testify at hearing or trial in this matter:

- Amber Amundson – 11300 N. Rio Vista Rd #B8
- Terry Hoadley – 11300 Rio Vista #10A
- Detective Hamilton – Bannock County Sheriff's office
- Sgt Dahlquist – Bannock County Sheriff's Office
- Sgt Young – Bannock County Sheriff's Office
- Chase Hansen – 11300 nN. Vio Vista Rd #B8
- Ernest Mabe- 49 Tulane
- Deputy Lovell – Bannock County Sheriff's Office
- Ember Kotowski – 1231 Swisher #6
- Kim Holt – Bannock County Sheriff's Office Dispatch
- Trent Smith – Bannock County Sheriff's Office
- Detective Ballard – Bannock County Sheriff's Office

At the present time, to the best knowledge of the plaintiff, only the aforementioned individuals with an "*" before their name have a record of felony convictions which are attached hereto and incorporated by reference.

REQUEST NO. 2h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE - Page 4

RESPONSE NO 2h: For statements made by witnesses, please see Bannock County Sheriff's Offense Report No.10-B4952, attached hereto and incorporated by reference.

REQUEST NO. 2i. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

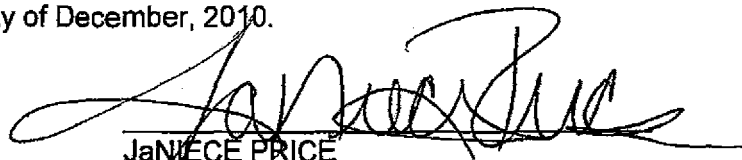
RESPONSE NO 2i: For reports and memorandum made by a police officer or investigator, please see Bannock County Sheriff's Offense Report No.10-B4952, attached hereto and incorporated by reference.

REQUEST NO. 2j. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: There are no known intercepted jail conversation at this time.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 14th day of December, 2010.

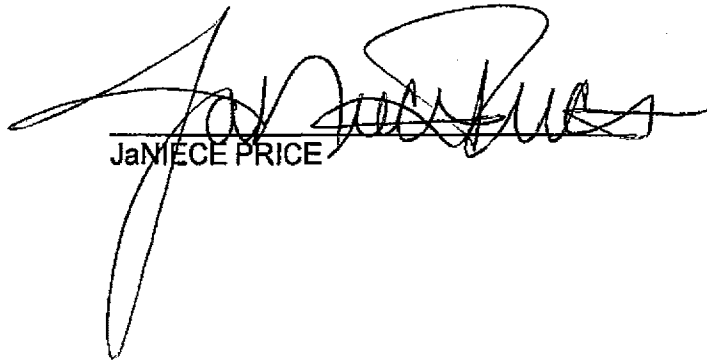

JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 14th day of December, 2010, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery - *mailbox*
☐ facsimile



JANIECE PRICE

DEFENDANT'S COPY

MARK L. HIEDEMAN
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

2011 -02- 02

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK.

STATE OF IDAHO,)	
	)	CASE NO. CR-10-18681-FE
Plaintiff,)	
	)	SUPPLEMENTAL
vs.	)	RESPONSE TO REQUEST
	)	FOR DISCOVERY
,JOSHUA N. HANSEN)	
)	
Defendant.)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Request for Discovery as follows:

REQUEST NO. 1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/ or others who have First Discovery Motion participated in

RESPONSE - Page 1

the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

b. All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1b: Already provided to the defendant during the court hearing for request to revoke the NCO on January 31, 2011., find attached another copy of that letter.

REQUEST NO. 2g. Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the Preliminary Hearing and/or trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: Additional persons who may be called to testify at hearing or trial in this matter:

- Dr. Karen Neill – Idaho State University
- Robb Redford – A to Z Family Counseling

At the present time, to the best knowledge of the plaintiff, only the aforementioned individuals with an "*" before their name have a record of felony convictions which are attached hereto and incorporated by reference.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 1st day of February, 2011.


JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I **HEREBY CERTIFY** That on this 18th day of February, 2011, a true and correct copy of the foregoing **RESPONSE TO REQUEST FOR DISCOVERY** was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile


JANIECE PRICE

DEFENDANT'S COPY

MARK L. HIEDEMAN
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

2011 -04- 21

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

JOSHUA N. HANSEN

Defendant.

CASE NO. CR-10-18681-FE

2nd SUPPLEMENTAL
RESPONSE TO REQUEST
FOR DISCOVERY

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the
Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Request for Discovery as follows:

RESPONSE NO 2g: Additional persons who may be called to testify at hearing or
trial in this matter, who will give expert testimony are as follows:

RESPONSE - Page 1

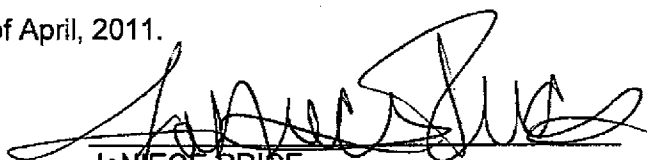
- Dr. Karen Neill – Idaho State University
- Robb Redford – A to Z Family Counseling

B. Robb Redford will testify as an expert in the field of Domestic Violence education and counseling. Mr. Redford will testify regarding information and knowledge concerning Domestic Violence education and counseling in relation to both an offender who commits domestic violence and a victim who is subjected to domestic violence. Mr. Redford also has information and knowledge concerning the nature and extent of a domestic violence offenders in utilizing isolation, power and control and both physical and mental coercion to commit violence on other individuals. In addition, Mr. Redford is expected to testify to his knowledge and training dealing with victims of domestic violence and a victim's response to an offender in a domestic violence or violence related relationship. He is also expected to testify about the relationship between violence and sex-role behaviors. Mr. Redford's curriculum vitae, setting forth his qualifications, is attached hereto. If Mr. Redford does any interviewing/examinations and/or offers more updated opinions, this disclosure will be supplemented as soon as is practical..

Dr. Karen Neill will testify as an expert in the field of Domestic Violence education and counseling. Dr. Neill will testify regarding information and knowledge concerning Domestic Violence education and counseling in relation to a victim who is subjected to domestic violence and/or violent relationships. Dr. Neill also has information and knowledge concerning the tools utilized to maintain isolation, power and control and both physical and mental coercion to commit violence on other individuals. In addition, Dr. Neill is expected to testify to her knowledge and training dealing with victims of domestic violence and a victim's response to an offender in a domestic violence or violence related relationship. She is also expected to testify to the lived experience of women who are battered as well as the impact of domestic violence on women. She is also expected to testify as to the reasons women stay, and/or return to their abusive partner. Dr. Neill's Curriculum Vitae setting forth her qualifications is provided herewith. If Dr. Neill does any interviewing/examinations and/or offers more updated opinions, this disclosure will be supplemented as soon as is practicable.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 20th day of April, 2011.


JAMIE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 20th day of April, 2011, a true and correct copy of the foregoing 2nd SUPPLEMENTAL RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile


JANIECE PRICE

VITAE

Karen S. Neill Ph.D., R.N., SANE-A
ISU Campus Box 8101
Pocatello, Idaho 83209
e-mail: neilkare@isu.edu

Telephone:
Home: 851-0138
Work: 282-2102
Nursing License: N 15810

PROFESSIONAL EXPERIENCE

Fall semester 2010	Adjunct Faculty Member, College of Southern Idaho, Twin Falls Idaho
September 2009 – Present	Coordinator, Leadership Option Idaho State University School of Nursing, Graduate Program
2006 (August) – 2007 (May)	Interim Director for Research and Evaluation Idaho State University, School of Nursing (Note: Position not funded for continuation in the School of Nursing after May 2007)
1986 - Present	Idaho State University, School of Nursing Full Professor (F2002) Associate Professor (1996 - 2002) Coordinator; Rural Preceptor Option (1992 - 1998) Placement of nursing students in rural hospitals as well as serving as faculty supervisor for Leadership Management Practicum course completed by the students in the rural site. Prepare preceptors and students for clinical rotation in the rural hospital. Assistant Professor (1990 -1995) Instructor (1986 - 1989) Coordinate clinical and theory nursing courses, participate in research and committee activities, public service.
1994 - Present (July)	Tenure Status, Department of Nursing, Idaho State University
1994 - Present (December)	Graduate Faculty status, Idaho State University
2004 - 2006	Pocatello Women's Correctional Center Staff Nurse February 2004 to August 2006 – Per-diem status
1997 - 2006	Portneuf Medical Center, (Formerly Bannock Regional Medical Center) Pocatello, Idaho Clinical Staff Nurse May 2003 – present; Per Diem status, Emergency Room (SANE-A) 1997-2003 (May) Home Health Care, Per-diem status
1994 – 2006 (Dec)	Idaho Rural Health Education Center, Boise Idaho Consultant Facilitate interdisciplinary education in rural hospitals throughout Southeast Idaho through coordination of student experiences in the rural hospital setting, as well as in the ISU Senior HealthMobile health and wellness service delivery program. Serve as consultant on research and grant projects.

1993 - 1998	Progressive Staff, PRN. Pocatello, ID. Staff nurse in rural hospitals in the charge nurse/leadership management role; consultation; occasional status.
1991 - 1992	Idaho State University, Administration. Administrative Intern to the President, half-time.
1980 - 1995	Bannock Regional Medical Center, Pocatello, ID. Staff Nurse, Charge nurse role Pediatrics/PICU; 1985-1994 Occasional status 1980-1985 Full-time status

EDUCATION

1994	Ph.D. - Idaho State University, Pocatello, Idaho Department of Pharmaceutical Sciences Pharmacy Administration
1985	M.S. - Idaho State University, Pocatello, Idaho. Functional areas of expertise – education Clinical specialty - family nursing
1982	B.S. - Idaho State University, Pocatello, Idaho Generalist in nursing
1980	A.S. - Sierra College, Rocklin, CA Pre-nursing Licensed Practical Nursing licensure obtained.

CERTIFICATIONS

2005	Sexual Assault Nurse Examiner/Adults and Adolescents (SANE-A) International Association of Forensic Nurses (Expires 10/2011)
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PROFESSIONAL ACTIVITIES

02/2011	Appointed member; Idaho State University Division of Health Sciences Executive Council
2010	Developed and delivered Forensic Team Response to Sexual Assault, SART/SANE course. College of Southern Idaho Health Sciences Division. Adjunct faculty member, Fall 2010.
2010	Elected to Editorial Board, Journal of Forensic Nursing, the official journal of the International Association of Forensic Nurses, a quarterly peer reviewed publication. The journal's objective is to publish scholarly manuscripts and to expand empirical evidence important to the practice of forensic nursing <i>worldwide</i> .
2009	Expert Witness State Of Idaho State vs. Manuel Sanchez
2009	Coordinator, Leadership Tract. Idaho State University School of Nursing

- 2007-2009 Member; Saint Alphonsus Medical Center Nursing Research Advisory Committee, Boise Idaho.
- 2006- 2010 **Invited Manuscript Reviewer;** Journal of Allied Health.
- 2006 **Invited Participant;** Leadership in Rural Health Interprofessional Education and Practice. Institute sponsored by HRSA and the Office of Interprofessional Scholarship, Service and Education, Creighton University. Denver CO. (September 7-10, 2006).
- 2006 – **Present Invited Member,** Idaho Victim Assistance Academy (IVAA) Statewide Committee, Idaho Coalition Against Sexual and Domestic Violence (March 2006).
- 2005- 2006 **Invited Member;** Idaho Fatality Review Team, Idaho Coalition Against Domestic and Sexual Violence.
- 2005 - **Present Invited Member;** Idaho Supreme Court Domestic Violence Subcommittee of Children and Families in the Court.
- 2004- 2006 Member, Pocatello Women's Correctional Center (PWCC) Prison Rape Elimination Act (PREA) Implementation Team.
- 2004 - 2010 **Invited Member,** Manuscript Review Panel, Journal of Forensic Nursing
- 2004 - 2005 (November) Elected President, Bannock County Domestic Violence and Sexual Assault Task Force
- 2004 - **Present Appointed** by Governor Dirk Kempthorne, State of Idaho to the Idaho Council on Domestic Violence and Victim Assistance (ICDVVA), Region 6 Council Member. (Appointment; July 1, 2004 to present; Reappointed 07/08).
- 2004- 2006 Faculty Practice, Pocatello Women's Correctional Center, Pocatello, Idaho
- 2004 (March) Invited Review, Exploring Nursing Work Environments (text proposal). Jones and Bartlett Publishers, Sudbury Massachusetts.
- 2003- 2005 Faculty Practice. Portneuf Medical Center, Pocatello, Idaho Nursery/NICU, Per-Diem status/Sexual Assault Nurse Examiner, Emergency Room.
- 2003 - 2006 Elected Member; Board of Directors. Idaho Coalition Against Sexual Assault and Domestic Violence.
- 2002 - **Present Appointed Member;** State of Idaho Council on Domestic Violence and Victim Assistance (November) Batterer Treatment Oversight Committee
Committee Chair 2006-present
- 2001-**Present** Idaho Supreme Court Approved Domestic Violence/Battery Evaluator; Fifth Judicial District
- 2001-**Present** Member: International Association of Forensic Nurses

2000-2006 Sexual Assault Nurse Examiner (SANE-A), Portneuf Medical Center, Pocatello, Idaho
Sexual Assault Nurse Examiner (SANE-A), Region 5, Southeastern Idaho

1985 - Present Sigma Theta Tau
Theta Upsilon Chapter

PUBLICATIONS

*Refereed Journals

- *2010 Agado, B., Bowen, N., Paarman, C., Neill, K., et. al. Two methods of nonsurgical periodontal therapy on health related quality of life (HRQL) and illness for patients with chronic obstructive pulmonary disease (COPD): A randomized controlled clinical trial. *Journal of Dental Hygiene* (under review)
- *2010 Talbot, K., Neill, K., & Rankin, L. (2010). Rape accepting attitudes of university undergraduate students. *Journal of Forensic Nursing*, 6(4), 170-179.
- *2009 Snyder, F.J., Dundas, M.L., Kirkpatrick, C. & Neill, K. (2009). The use of herbal supplements and why they are perceived as safe by the elderly in southeast Idaho. *Journal of Nutrition for the Elderly*, 28, 81-95.
- *2009 Neill, K.S. & Powell, L. (2009) Mobile wellness care for rural older adults: Outcomes and Opportunities. *Journal of Gerontological Nursing*, 35(7), 46-52.
- *2007 Hayward, K., Steiner, S. & Sproule, K. (2007). Victims' perceptions of the effectiveness of a domestic violence treatment program for male perpetrators. *Journal of Forensic Nursing*, 3(2), 77-83.
- *2007 Neill, M., Hayward, K. & Peterson, T. Students' perceptions of the interprofessional team in practice through the application of servant leadership principles. *Journal of Interprofessional Care*, 21(4), 425-432.
- *2006 Kirkpatrick, C., Page, R. & Hayward, K. (2006) Nonvitamin, nonmineral, supplement use and beliefs about safety and efficacy among rural older adults in southeast and south central Idaho. *Journal of Nutrition for the Elderly*, 26(1/2), 59-82.
- *2005 Hayward, K. (2005). Facilitating interdisciplinary practice through mobile service provision to the rural older adult. *Geriatric Nursing*, 26(1), 29-33.
- *2005 Hayward, K., Kochniuk, L., Powell, L., & Peterson, T. (2005). Changes in student perceptions of interdisciplinary practice reaching the older adult through mobile service delivery. *Journal of Allied Health*, (34(4), 192-198.
- 2004 Hayward, K. (2003). Idaho SANE/SART Program Receives Federal Award. *On The Edge*. The Official Publication of the International Association of Forensic Nurses, 10(1), 10.
- 2004 Hayward, K. & Collaer-Muzzo, C. (2003, January/February). Starting a SANE/SART program: Opportunities, challenges, and rewards. *Forensic Nurse*, 13-14, 24.

- *2003 Hayward, K. S. & Weber, L. (2003). A community partnership to prepare nursing students to respond to domestic violence. *Nursing Forum*, 38(3), 5-10.
- *2000 Hayward, K.S., & Pehrson, D.E. (Fall 2000) Interdisciplinary action supporting sexual assault prevention efforts in rural elementary schools. *Journal of Community Health Nursing*, 17(3), 141-150.

OTHER SCHOLARLY ACTIVITIES

- 2010 Developed and coordinated Forensic Team Response to Sexual Assault SART/SANE course, College of Southern Idaho (Adjunct Faculty member)
- 2010 Selected academic faculty member of the 2010 (June) Idaho Victim Assistance Academy (IVAA) held on the Boise State University campus. Sexual Violence.
- 2009 Selected academic faculty member of the 2009 (June) Idaho Victim Assistance Academy (IVAA) held on the Boise State University campus. Sexual Violence.
- 2008 Selected academic faculty member of the 2008 (June) Idaho Victim Assistance Academy (IVAA) held on the Boise State University campus. Contributor of chapter for IVAA Manual on *Rural and Remote Victims* for the Idaho Victim Assistance Academy.
- 2007 Selected academic faculty member of the 2007 (June) Idaho Victim Assistance Academy (IVAA) held on the Boise State University campus. Co-contributor for chapter on *Sexual Violence* for the Idaho Victim Assistance Academy.
- 2004 -2006 Development and implementation of the first SART/SANE course in the State of Idaho held on the Idaho State University Campus January 15-17, 23 and 24, 2004; January 11-15, 2005; January 9-13, 2006 (ISU/BSU campus), October 23-27, 2006, (Nampa Civic Center).
- 2003-2005 Development of Batterer Intervention Treatment Program Standards, State of Idaho as an appointed member, Batterer Treatment Oversight Committee, Idaho Council on Domestic Violence and Victim Assistance (ICDVVA). Minimum Standards for Domestic Violence Batterer Treatment, State of Idaho approved by the ICDVVA on 03/08/05.

RESEARCH IN PROGRESS

- 2010 Perceived Risk, Severity of Abuse, Expectations and Needs of Women Experiencing Intimate Partner Violence
- 2009 Profile of Male Individuals Arrested for Domestic Battery given pro-arrest policies

GRANTS IN PROGRESS

Note: Grant author or co-author (indicated) on all grant awards presented herein;

GRANTS COMPLETED

Note: Grant author or co-author (indicated) on all grants presented herein;

- 2010 SART/SANE Forensic Team Response to Sexual Assault course, College of Southern Idaho. Funded by Community Health Improvement Grant, Twin Falls County, Idaho. \$6,000.00

- 2006-2007 Powell, L. & Hayward, K. Senior HealthMobile Project. Department of Health and Human Services. Quentin N. Burdick Interdisciplinary Grant Program. (Awarded 04/06/06; to December 30, 2007) (\$118,658)
- 2003-2007 Hayward, K. (2003). Development of a Regional Sexual Assault Nurse Examiner (SANE), Sexual Assault Response Team (SART). U.S. Department of Health and Human Services. Rural Health Outreach Program. (Awarded 05/01/03; to 04/30/07) (\$452,622.00).
- 2003-2006 Powell, L. & Hayward, K. Senior HealthMobile Project. Department of Health and Human Services. Quentin N. Burdick Interdisciplinary Grant Program. (Awarded 09/30/03; to July 1, 2006) (\$747,106.00)
- 2001/2002 Hayward, K. AARP Senior HealthMobile Grant. Awarded, \$8000.00
2002/2003 (\$2000.00 awarded each academic year)
2003/2004
2004/2005
- 2003 Hayward, K. (2003). Minneapolis Medical Research Foundation Grant. Idaho State University and Portneuf Medical Center Regional Partnership SANE/SART program, participant SANE-SART U.S. Website Team Project. (Awarded 05/07/03) (\$1152.00).

PROFESSIONAL PRESENTATIONS, INTERNATIONAL

- 2007 Leadership in Interprofessional Education and Clinical Practice. Beyond the Borders: International Nursing Education in the 21st Century. Royal College of Nursing. July 5-8, 2007. Brighton, London (paper accepted for workshop).
- 2006 Changes in Student Perceptions of Interdisciplinary Practice Reaching the Older Adult through Mobile Service Delivery. 1st Nurse Education International Conference. Developing Collaborative Practice in Health and Social Care Education. Vancouver, British Columbia. May 14-16, 2006. (Podium Session)
- 2006 Interprofessional Practice in Mobile Geriatric Wellness Care: Do Students' Perceptions Change through Service Learning? Third International All Together Better Health Conference: Challenges in Education and Practice. Imperial College, London. April 10-12, 2006 (Podium Session)

PROFESSIONAL PRESENTATIONS, OUT OF STATE

- 2009 Forensic Issues and Advancements. Criminal Justice Institute, University of Arkansas. Funded Institute, Office on Violence Against Women, Department of Justice. Spokane, WA. August 25, 2009. **Invited presentation**
- 2008 Offender Accountability: Addressing Perpetrator Responsibility and Victim Safety .16th Annual Scientific Assembly of the International Association of Forensic Nursing. Impacting Health and Justice Across the Lifespan. Dallas TX. September 17. (Podium Session).
- 2007 Interprofessional Practice in Mobile Care of the Rural Older Adult: Change in Students' Perceptions. Western Institute of Nursing. Portland OR. April 12-14. (Poster)

- 2007 A Comparative Exploration of the Needs and Priorities of Older Adults and Community Leaders in Rural America. 2007 Joint Conference of the American Society on Aging and the National Council on Aging. Chicago; March 7-10. (Podium Session)
- 2007 Students' Perceptions of the Interprofessional Team in Practice: Application of Servant Leadership in Community Based Care. 20th Annual Pacific Nursing Research Conference. Honolulu, HI. March 22-24. (Podium Session)
- 2006 An Effective Academic-Community Partnership Reaching the Older Adult Through Mobile Service Delivery. Sixth Annual Rural Health Conference "It's All About Access" sponsored by the Wyoming Primary Care Association, Cheyenne Wyoming. August 16-18, 2006. **(Invited Podium Session)**
- 2006 Joint Conference of the National Council on the Aging and the American Society on Aging. Invest in Aging. Strengthening Families, Communities, and Ourselves. Anaheim, CA. March 16-19, 2006. (Program Exchange)
- 2005 Addressing Domestic Violence in the Primary Care Setting. 5th Annual Wyoming Rural Health Conference. Casper Wyoming. April 27-29, 2005. (Podium Session)
- 2005 Supporting Vitality of the Rural Older Adult through Mobile Wellness Services: Outcomes and Opportunities. 2005 Joint Conference of the American Society on Aging and the National Council on Aging. Philadelphia. March 10-13, 2005. (Podium Session)
- 2004 Idaho State University (ISU) Senior HealthMobile. Rural Health on Wheels. Graying of the North Summit. The Center for Economic Development, California State University, Chico CA. November 4th, 2004. **Invited Podium Session.**
- 2004 Addressing Offender Accountability through Batterer Intervention and Coordinated Community Response. 2004 Family Violence Prevention Fund National Conference on Health Care and Domestic Violence. Health Consequences Over the Life Span. Boston, MA. October 22-24, 2004. Podium Session
- 2004 Reaching Seniors Where They Are: The ISU Senior HealthMobile. 4th Annual Wyoming Rural Health Conference, Building on Success – Creative Solutions in Rural Health. Sheridan, Wyoming. May 5-6, 2004. **Invited Podium Session.**
- 2004 Community Building and Collaborative Action: Bridging Academia and Rural Culture through Interdisciplinary Mobile Service Delivery to the Older Adult. Lessons Learned. 2004 Joint Conference of the American Society on Aging and the National Council on the Aging. San Francisco, Ca. April 14-17, 2004. Podium Session

PROFESSIONAL PRESENTATIONS, IN STATE

- 2010 Sexual Violence: Idaho Victim Assistance Academy. Boise State University. 06/16/10. **Invited Podium Session.**
- 2010 Sexual Violence. Presented at National Crime Victim's Rights Week. Boise State University. 04/21/10. **Invited Podium Session**

- 2010 Danger Assessment in Domestic Violence Cases. Idaho Trauma Nurse Network. Idaho State University. 01/21/10. **Invited Podium Presentation**
- 2009 Sexual Violence: A Public Health Issue. Presented at the Idaho Victim Assistance Basic Academy, Boise State University Campus. 04/17/09. **Invited Podium Presentation.**
- 2009 Sexual Violence. Presented at 2009 National Crime Victim's Rights Week, Boise State University. 04/29/09. **Invited Podium Presentation**
- 2008 Making Evidence Based Practice a Reality; Continuing Education Seminar through the School of Nursing, Idaho State University. Portneuf Medical Center. 05/15/08
- 2008 Effective Response for Rural and Remote Victims of Violence. Presented at the Idaho Advanced Victim Assistance Academy. 06/12/08. **Invited Podium Session**
- 2008 Effective Response for Rural and Remote Victims of Violence. Presented for Victim's Rights Week, Boise State University. 04/17/08. **Invited Podium Session**
- 2008 Ethics and Sexual Assault Response. Presented at the Idaho Summit on Sexual Assault: Your Role in Prevention and Response. Sponsored by the Idaho Coalition Against Sexual & Domestic Violence and the Idaho Teen Dating Violence Awareness & Prevention Project. Boise Centre on the Grove. 04/03/08. **Invited Panel Participant**
- 2008 Effective Services for Victims of Sexual Violence; Critical Linkage of Human, Social & Health Care Systems. Presented at the Idaho Summit on Sexual Assault: Your Role in Prevention and Response. Sponsored by the Idaho Coalition Against Sexual & Domestic Violence and the Idaho Teen Dating Violence Awareness & Prevention Project. Boise Centre on the Grove. 04/03/08. **Invited Podium Session**
- 2007 Sexual Violence. Presented at the Idaho Victim Assistance Academy, Sponsored by the Idaho Coalition Against Sexual & Domestic Violence. Boise State University campus. 06/13/07. **Invited Podium Session.**
- 2007 Sexual Violence. Presented during Victim's Rights Week, Boise State University. Boise State University Campus. 04/25/07. **Invited Podium Session**
- 2006 Balancing Research, Teaching and Scholarship. Panel at the Kasiska College of Health Professions Research Day. ISU Campus. 04/06/06. **Invited Panel Participant**
- 2005 Development of Batterer Treatment Program Standards, State of Idaho Batterer Treatment Program Oversight Committee. *Three Days in June* conference sponsored by the Idaho Council on Domestic Violence and Victim Assistance. June 7-9. Boise, Idaho. **Invited panel participant**
- 2005 Addressing Domestic Violence and Sexual Assault: An Organizational Imperative. Rural Nursing Network. Bingham Memorial Hospital, Blackfoot Idaho 03/17/05. Podium Session.
- 2005 Sexual Assault and Domestic Violence. The Minidoka and Cassia Community Task Force Against Domestic Violence. Burley, Idaho 02/28/05. Podium Session.

CONTINUING EDUCATION

- 2011 2011 Doctoral Education Conference. Sponsored by the American Association of Colleges of Nursing. January 26-29, San Diego CA.
- 2010 International Association of Forensic Nursing Scientific Assembly. Ending Violence: Leading the Health Care Response. Pittsburg, PA. October 27-30.
- 2010 An Overview of DFSA SANE/SAFE/SART Protocol I. Office for Victims of Crime. RTI International webinar. 09/01/10. (2 contact hours).
- 2010 SART Case Review webinar. SAFEta. International Association of Forensic Nurses. 08/24/10. (90 minutes)
- 2010 Forensic Issues for Nurses-Elder Abuse. Medscape. 09/14/09 (1 contact hour).
- 2010 Two Days in June Conference on Crime Victim Assistance, sponsored by the Idaho Council on Domestic Violence and Victim Assistance. 06/08/10 – 06/09/10.
- 2009 Forensic Issues for Nurses-Elder Abuse. Medscape. 09/14/09 (1 contact hour).
- 2009 Two Days in June, Promoting Peace in Domestic Relationships. Idaho Council on Domestic Violence and Victim Assistance Boise, Idaho. 06/08/09-06/09/09.
- 2008 International Association of Forensic Nursing 16th Annual Scientific Assembly. Forensic Nursing. Impacting Health and Justice Across the Lifespan. Dallas, TX. September 17-20, 2008.
- 2008 Two Days in June. Sponsored by the Idaho Council on Domestic Violence and Victim Assistance. CDA, Idaho. 06/02/08 to 06/03/08.
- 2008 Idaho Nurse Educator's Conference: Connecting Our Crossroads. Sponsored by Boise State University and Northwest Nazarene University, Boise, Idaho. 03/12/08 to 03/14/08.
- 2008 From Ideology to Inclusion: Evidence-Based Policy and Intervention in Domestic Violence. Sponsored by the California Alliance for Families and Children. Sacramento, CA. 02/15/08 to 02/16/08.
- 2008 Mini Domestic Violence Summit. Sponsored by the Bannock County Family Law Section. Pocatello, Idaho. 01/18/08.
- 2007 Faculty Nurse Executive Summit. Sponsored by Nursing Economics. Scottsdale, AZ. 11/29/07 to 12/01/07.
- 2007 Idaho Summit on Domestic Violence: Creating Safety for Immigrant Victims. Boise, Idaho. Sponsored by the Idaho Coalition Against Domestic and Sexual Violence. 10/17/07.
- 2007 "Two Days in June" Promoting Peace in Domestic Relationships. Boise, Idaho. 06/06/07-06/07/07.
- 2007 Western Institute of Nursing. Portland OR. April 12-14.

- 2007 20th Annual Pacific Nursing Research Conference. Honolulu, HI. March 22-24.
- 2006 Idaho Nurse Educator's Conference. Learner Centered Education: Meaningful Learning. Idaho State University, Pocatello, Idaho. September 20-22.
- 2006 Idaho Summit on Domestic Violence. Victim Safety: Your Role in Understanding and Assessing Dangerousness. Sponsored by the Idaho Coalition Against Sexual and Domestic Violence. October 12.
- 2006 **Invited Participant**, Leadership in Rural Health Interprofessional Education and Practice. Institute sponsored by HRSA and the Office of Interprofessional Scholarship, Service and Education, Creighton University. Denver CO. September 7-10.
- 2006 Joint Conference of the National Council on the Aging and the American Society on Aging. Invest in Aging. Strengthening Families, Communities and Ourselves. March 16-19, 2006. Anaheim, CA.
- 2005 Three Days in June Annual Conference of the Idaho Council on Domestic Violence and Victim Assistance. June 7-9. Boise, Idaho.
- 2005 Addressing Domestic Violence in the Primary Care Setting. 5th Annual Wyoming Rural Health Conference. April 27-29. Casper, Wyoming.
- 2005 2005 Joint Conference of the American Society on Aging and the National Council on Aging. March 10-13. Philadelphia.

COMMUNITY SERVICE

- 2004 - **Present** **Appointed** by Governor Dirk Kempthorne, State of Idaho to the Idaho Council on Domestic Violence and Victim Assistance (ICDVVA), Region 6 Council Member. (Appointment; July 1, 2004 to July 1, 2008; Reappointment July 1, 2008 to July 1, 2011)
- 2004- **Present** Sexual Assault Nurse Examiner consultant, liaison with law enforcement, advocates, court personnel, and community.
- 2004- **Present** Idaho Supreme Court Approved Domestic Assault/Battery Evaluator.
- 2002 - **Present** Appointed Member; State of Idaho Council on Domestic Violence and Victim Assistance (November) Committee for the Oversight of Batterer Treatment Standards
Committee Chair 2006-present
- 2001- 2006 Bannock County Sexual Assault/Domestic Violence Task Force; Member.
Elected Vice President (F02); Elected President Spring 05
- 2001- 2006 Elected Member, Board of Directors of the Family Services Alliance of Southeast Idaho. Monthly meetings.

HONORS, AWARDS

- 2008 Governors Appointment, Idaho (State) Council on Domestic Violence and Victim Assistance July 2008 to July 2011.

2007 Department of Health and Human Services, Administration on Aging. 2007 Choices for Independence Program Champions Award, ISU Senior HealthMobile program.

COMMITTEES – UNIVERSITY

2009 University Violence Against Women Task Force
2008 University Tenure and Promotion Task Force Committee
2002-2005 Judicial Board
2000 - 2002 University Distinguished Public Service Award Committee

COMMITTEES – DIVISION of HEALTH SCIENCES

2011 Division of Health Sciences Executive Council

COMMITTEES - COLLEGE OF HEALTH RELATED PROFESSIONS

2000- Present Promotion and Tenure (Chair 2005-2006)
2000 - Present Scholastic Appeals Committee (Chair 2001-2005)

COMMITTEES - SCHOOL OF NURSING

2006 - Present Faculty Development Council (Chair 2006-2007, 2010)
2001 - 2006 Research and Faculty Development
2000 - Present Promotion and Tenure
1994 - Present Graduate Council
Faculty Council
2010 Oral Examination Chair or member, ISU School of Nursing (8 total)
2010 Comprehensive Examination Scoring, ISU School of Nursing (9 total)
2009 Oral Examination, Chair or member, ISU School of Nursing (13 total)
2009 Comprehensive Examination Scoring, School of Nursing (10 total)
2007 and 2008 Comprehensive and Oral Examination, ISU School of Nursing

DOCTORAL COMMITTEES

2010 Departmental Appointee
Student: Rebecca Pender
Counselor Education
2009 College Appointee
Student: Erin Brinkley
Counselor Education

THESIS COMMITTEES

2009 GFR
Student: Brooke Algado
Dental Hygiene
Title: Health Related Quality of Life following Periodontal Instrumentation for Patients with Chronic Obstructive Pulmonary Disease and Periodontitis

2009 GFR Oral Exam Psychology Department (Hilary Stratton)

2008 GFR
Student: Kimberly Talbot
Department of Health and Nutrition Sciences
Title: Rape Accepting Attitudes of ISU Undergraduate Students
Successfully Defended: 12/08 (Published, Journal of Forensic Nursing 2010)

COURSES TAUGHT

Fall 2005

Project Director (ISU Senior HealthMobile)
(Awarded Federal Grant)
Principal Investigator (SANE/SART Regional Program)
Project Chair: Duane Connor
Second Committee Member: Cindy Christenson
Faculty Practice Pocatello Women's Correctional Center (PWCC)
Preceptor N423 Leadership Students in the PWCC

Spring 2006

N610 Nursing Research (on line, using Web-CT) 3 cr. (18 students)
Project Director (ISU Senior HealthMobile)
(Awarded Federal Grant)
Principal Investigator (SANE/SART) (Awarded Federal Grant)
Thesis Chair: Kathy Sproule (published)
Faculty Practice Pocatello Women's Correctional Center (PWCC)
Preceptor N423 Leadership Students in the PWCC

Fall 2006

Administrative Assignment (Interim Director of Research and Evaluation)
Project Director (ISU Senior HealthMobile)
(Awarded Federal Grant)
Principal Investigator (SANE/SART Program) (Awarded Federal Grant)
Project Director, ISU Senior HealthMobile

Spring 2007

Administrative Assignment (Interim Director of Research and Evaluation)
N610 Nursing Research (on line, using Moodle) 3 cr. (38 students)
Principal Investigator (SANE/SART Program)
(Awarded Federal Grant)
Comprehensive Exams/Graduate Students (7)
Project Director, ISU Senior HealthMobile

Fall 2007

N600 Theoretical Foundations for Nursing Practice (on line, Moodle) 3 cr. (50 students)
N612 Health Care of Rural Communities (on line, Moodle) 3 cr. (34 students)
Project Director, ISU Senior HealthMobile

Spring 2008

N610 Advanced Evidence Applications (3 cr.-faculty lead in the course) (on line) (45 students)
N653 Organizational Behavior and Health Care Systems (3 cr.) (on line) (6 students)
Project Director ISU Senior HealthMobile
Administrative Assignment (University Tenure and Promotion Task Force Committee)

Fall 2008

N612 Health Care in Rural Communities (Course Coordinator) 6 cr. (45 students)
N652 Administrative Approaches to Nursing Leadership 3 cr. (1 student)

Spring 2009

N610 Advanced Evidence Applications (Course Coordinator)	5 cr. (43 students)
N621 Advanced Nursing Roles	2 cr. (2 students)
N653 Organizational Behavior in the Health Care System 3 cr.	3 cr. (1 student)

Fall 2009

N612 Health Care of Rural Communities (2 sections) 7 credits (Course Coordinator) (44 students)	
N655 Advanced Leadership	3 credits (Course Coordinator) (3 students)
N655L Advanced Leadership Lab	2 credits (Course Coordinator) (3 students)

Spring 2010

N610 Advanced Evidence Applications (1 ½ sections) 4 credits (Course Coordinator) (54 students)
N656 Advanced Leadership Practicum (1 section) 4 credits (Course Coordinator) (3 students)
N621 Advanced Nursing Roles (1 section) 2 credits (3 students)
Chair – Faculty Development Council

Fall 2010

N612 Health Care of Rural Communities (2 sections) 3 credits (Course Coordinator) (50 students)
Orientation of new faculty member into the course
N652 Administrative Approaches to Nursing Leadership (1 section) (3 credits) (8 students)
Review Team Chair: Dr. Molinari for Promotion and Tenure
Member Executive Council, Division of Health Sciences
Faculty Development Council

Spring 2011

N610 Advanced Evidence Applications (1 section) 4 credits (Course Coordinator) (48 students)
N653 Organizational Behavior in a Changing Health Care System (3 credits) (8 students)
Appointed Member, Division of Health Sciences Executive Council
Faculty Development Council

04/09/11 KN

K12

DEFENDANT'S COPY

MARK L. HIEDEMAN
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

2011 -02- 02

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK.

STATE OF IDAHO,)	
	)	CASE NO. CR-10-18681-FE
Plaintiff,)	
	)	SUPPLEMENTAL
vs.	)	RESPONSE TO REQUEST
	)	FOR DISCOVERY
JOSHUA N. HANSEN)	
)	
Defendant.)	
)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Request for Discovery as follows:

REQUEST NO. 1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/ or others who have First Discovery Motion participated in

RESPONSE - Page 1



CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 1st day of February, 2011, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile


JANIECE PRICE

Randall D. Schulthies
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
DISTRICT COURT

2011 APR 26 AM 8:37

BY _____
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

JOSHUA HANSEN,

Defendant.

)
) **CASE NO. CR-2010-18681-FE-A**
)
) **OBJECTION AND MOTION IN**
) **LIMINE**
)
)
)
)
)
)

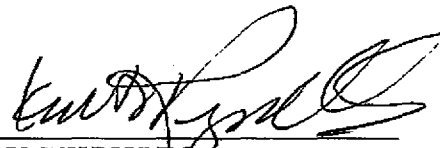
COMES NOW the Defendant, Joshua Hansen, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16.I.C.R. and moves this Court for its order excluding the State's witnesses, Robert Redford and Dr. Karen Neill, due to the late disclosure of the witnesses. This motion is based upon the following facts:

1. On December 8, 2010, Defendant filed its Discovery Motion.
 2. On December 15, 2010, the State filed its first response to Defendant's Discovery Motion.
- The State did not in its response identify any individuals who may be called as an expert witness.

3. On December 20, 2010, the Defendant was arraigned on the charge of Attempted Strangulation.
4. On December 20, 2010, trial in this matter was set for April 5, 2011.
5. On February 1, 2011, the State filed its Supplemental Response to Discovery Request with an attachment. The attachment was a letter written by the alleged victim wherein she stated that she was not strangled or choked but that the Defendant was only guilty of battery.
6. On February 7, 2011, Defendant filed its Motion to Remand and Affidavit of Kent Reynolds in support of the motion. Attached to the Affidavit of Kent Reynolds was the letter of the alleged victim wherein she stated that she had not been choked or strangled but only that she had been battered.
7. The State requested additional time in which to respond to Defendant's Motion to Remand. The request was granted.
8. On March 21, 2011, the first Pretrial Conference was held. At that time, Defendant's Motion to Remand was set for hearing. Trial was continued to May 3, 2011 with an additional Pretrial Conference set for April 18, 2011.
9. On March 28, 2011, the Court heard argument on Defendant's Motion to Remand. The issue of the alleged victim's statement and her letter indicating that she had not been strangled or choked but only battered was the basis of the motion. The State was fully aware of the alleged victim's statement recanting any claim that she had been choked or strangled.
10. On April 18, 2011, Defendant filed its Requested Jury Instructions.

11. On April 18, 2011, a second pretrial conference was held. Trial was confirmed for May 3, 2011 the date which had been set at the March 21, 2011 Pretrial Conference.
12. On April 20, 2011, the State filed its Second Supplemental Response to Discovery. It disclosed the State would call Robert Redford and Dr. Karen Neil as expert witnesses. The response was filed April 20, 2011 and not received until the late afternoon of Friday, April 12, 2011.

DATED this 25 day of April, 2011.

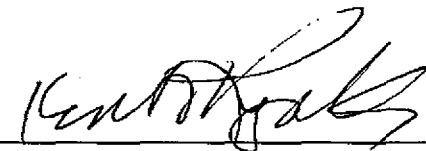

KENT V. REYNOLDS
Assistant Chief Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25 day of April, 2011, I served a true and correct copy of the **OBJECTION AND MOTION IN LIMINE** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile


KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK

2011 APR 26 AM 8:37

BY
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

JOSHUA HANSEN,

Defendant.

)
) CASE NO. CR-2010-18681-FE-A
)
)
) BRIEF IN SUPPORT OF
) OBJECTION AND MOTION IN
) LIMINE
)
)
)
)
)
)

COMES NOW the Defendant, Joshua Hansen, by and through his attorney of record,
Kent V. Reynolds, Assistant Chief Deputy Public Defender, and hereby submits the following
brief in support of Defendant's Objection and Motion in Limine.

FACTS

The facts are set forth in Defendant's Objection and Motion in Limine.

ARGUMENT

A. Late Disclosure of Expert Witnesses.

The State disclosure was made only thirteen (13) days prior to trial. Defendant is

assuming the State expert witnesses may be called to testify about an alleged victim of domestic violence recanting their prior story about domestic violence. *See infra*. The State has been on notice of the alleged victim's statement that she had not been choked or strangled but that she had only been battered by the Defendant since February 2011. The State in its prior discovery responses had never disclosed its intent to call expert witness to testify in this matter until April 20, 2011. The late disclosure is prejudicial to the preparation of Defendant's defense. The State has had months in which to retain and disclose its expert witnesses. The State has not set forth any basis for the untimely late disclosure of the expert witnesses. The State had a duty to timely supplement its discovery responses but to do so in a timely non-prejudicial manner. The State should not be allowed to take advantage of their expert witnesses testimony when it has not disclosed the witnesses in a timely manner.

In addition, the State's disclosure suggests that the experts witnesses may engage in further investigation interviews, examinations to supplement their anticipated testimony. This representation by the State further compounds the impact of the State's untimely disclosure that it will call expert witnesses to testify in this case. Defendant is further prejudiced by the inability to know fully what opinions the expert witnesses may testify to at trial because the State has represented they may do further investigation, interviewing, etc. This further prejudices the Defendant because he cannot adequately prepare for trial and the-so-called expert testimony.

B. The State's disclosure is deficient and does not comply with Rule 16, I.C.R.

Rule 16 of the Idaho Criminal Rules states:

(7) Expert witnesses. Upon written request of the defendant the prosecutor shall provide a written summary or report of any testimony that the state intends to introduce pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence at

trial or hearing. The summary provided must describe the witness's opinions, the facts and data for those opinions, and the witness's qualifications. Disclosure of expert opinions regarding mental health shall also comply with the requirements of I.C. § 18-207. The prosecution is not required to produce any materials not subject to disclosure under paragraph (f) of this Rule. This subsection does not require disclosure of expert witnesses, their opinions, the facts and data for those opinions, or the witness's qualifications, intended only to rebut evidence or theories that have not been disclosed under this Rule prior to trial. (Emphasis Added)

The State's response does not comply with the requirements of Rule 16. The disclosure does not state the witnesses opinions nor the factual basis for their opinions as it relates to the facts of this case. The disclosure only indicates in generalities the nature of the testimony to which the experts may testify. The disclosure does not indicate how the proposed testimony relates to the facts of this particular case. Defendant is left to guess as to how the experts testimony may relate to the issue of an alleged victim of domestic violence recanting their prior story.

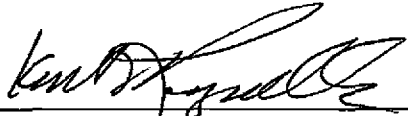
In addition, the State's late disclosure indicates the experts witnesses may engage in further investigation, interviews or examinations, etc., to supplement their anticipated testimony. This exacerbates the impact of the late disclosure and the failure to identify the facts relied upon by the expert witnesses in forming their trial testimony opinions. In addition to having to guess about the nature of the expert witnesses opinion testimony and the facts upon which the opinions are based (because the State has not disclosed that information), Defendant is further left to guess as to how to prepare for trial and for the expert witness testimony because Defendant cannot know what additional information, interviews or facts the expert witnesses may gather or develop in supplementing their current opinions and how those opinions may change prior to or during trial. The State knew of the issues to be presented in this case for months and took no action to

comply with Rule 16, until at this late hour. Defendant is prejudiced by the State's late disclosure because it does not know and cannot know what testimony may be presented to the jury by the State's expert witnesses.

CONCLUSION

Based upon the foregoing, Defendant requests the Court to exclude the State's expert witnesses from testifying at trial.

DATED this 25 day of April, 2011.



KENT V. REYNOLDS
Assistant Chief Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25 day of April, 2011, I served a true and correct copy of the **BRIEF IN SUPPORT OF OBJECTION AND MOTION IN LIMINE** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile


KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY

2011 APR 27 AM 9:06

BY _____
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

JOSHUA HANSEN,

Defendant.

CASE NO. CR-2010-18681-FE-A

**AMENDED OBJECTION AND
MOTION IN LIMINE**

COMES NOW the Defendant, Joshua Hansen, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16.I.C.R. and moves this Court for its order excluding the State's expert witnesses, Robb Redford and Dr. Karen Neill, due to the late disclosure of these individuals as expert witnesses and the failure of the State to comply with Rule 16(c)(4), I.C.R., and Defendant's Discovery Motion. This motion is based upon the following facts:

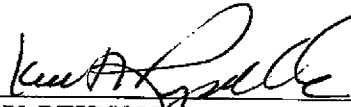
1. On December 8, 1010, Defendant filed its Discovery Motion. Paragraph 2g, requests the identification of all "persons having knowledge of relevant facts who may be called by the

- State as witnesses at trial" (fact witnesses). Paragraph 2i, requests the State to provide a "written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert's witness's opinions, the facts and data for those opinions, and the expert's qualifications pursuant to the Idaho Rule of Evidence, Rule 701, *et. seq* (expert witnesses).
2. On December 15, 2010, the State filed its first response to Defendant's Discovery Motion. The State did not in its response identify any individuals who may be called as an expert witness.
 3. On December 20, 2010, the Defendant was arraigned on the charge of Attempted Strangulation.
 4. On December 20, 2010, trial in this matter was set for April 5, 2011.
 5. On February 1, 2011, the State filed its Supplemental Response to Discovery Request with an attachment. The attachment was a letter written by the alleged victim wherein she stated that she was not strangled or choked but that the Defendant was only guilty of battery. It also identified in response to paragraph 2g, after quoting paragraph 2g, the additional fact witnesses, Dr. Karen Neill and Robb Redford. It did not identify either of these individuals as expert witnesses as requested in paragraph 2i. Nor did the State provide the information required pursuant Defendant's Discovery Motion, paragraph 2g and Rule 16(c)(4), I.C.R.
 6. On February 7, 2011, Defendant filed its Motion to Remand and Affidavit of Kent Reynolds in support of the motion. Attached to the Affidavit of Kent Reynolds was the letter of the alleged victim wherein she stated that she had not been choked or strangled

but only that she had been battered.

7. The State requested additional time in which to respond to Defendant's Motion to Remand. The request was granted.
8. On March 21, 2011, the first Pretrial Conference was held. At that time, Defendant's Motion to Remand was set for hearing. Trial was continued to May 3, 2011 with an additional Pretrial Conference set for April 18, 2011.
9. On March 28, 2011, the Court heard argument on Defendant's Motion to Remand. The issue of the alleged victim's statement and her letter indicating that she had not been strangled or choked but only battered was the basis of the motion. The State was fully aware of the alleged victim's statement recanting any claim that she had been choked or strangled.
10. On April 18, 2011, Defendant filed its Requested Jury Instructions.
11. On April 18, 2011, a second pretrial conference was held. Trial was confirmed for May 3, 2011, the date which had been set at the March 21, 2011 Pretrial Conference.
12. On April 20, 2011, the State filed its Second Supplemental Response to Discovery. It disclosed in response to Defendant's Discovery Motion, paragraph 2g, that the State would call Robb Redford and Dr. Karen Neil as witnesses with some type of description of their anticipated testimony along with their curriculum vitae. The response was filed April 20, 2011 and not received until the late afternoon of Friday, April 20, 2011.

DATED this 24 day of April, 2011.

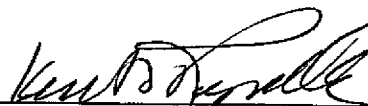

KENT V. REYNOLDS
Assistant Chief Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24 day of April, 2011, I served a true and correct copy of the **AMENDED OBJECTION AND MOTION IN LIMINE** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile


KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
2011 APR 27 AM 9:06
BY _____
DEPUTY CLERK

COPY

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff

v.

JOSHUA HANSEN,

Defendant.

)
) CASE NO. CR-2010-18681-FE-A
)
) AMENDED BRIEF IN SUPPORT
) OF OBJECTION AND MOTION IN
) LIMINE
)
)
)
)
)
)

COMES NOW the Defendant, Joshua Hansen, by and through his attorney of record,
Kent V. Reynolds, Assistant Chief Deputy Public Defender, and hereby submits the following
brief in support of Defendant's Objection and Motion in Limine.

FACTS

The facts are set forth in Defendant's Amended Objection and Motion in Limine.

ARGUMENT

A. The proposed witnesses, Robb Redford and Dr. Karen Neill are not disclosed as expert witnesses.

Pursuant to Defendant's Discovery Motion filed in December 2010, Defendant made two specific requests regarding the State's witnesses, facts witnesses and expert witnesses. In paragraph 2g, Defendant requested the State to disclose fact witnesses. ¹ In paragraph 2i, Defendant requested the State to identify its expert witnesses along with a summary of their report and opinions and the facts and date for the experts opinions. In its first response, the State identified certain individuals who may be called as fact witnesses. ² In the State's Supplemental Response filed on or about February 2, 2011, the State disclosed two additional fact witnesses, Robb Redford and Dr. Karen Neill. It did not at that time identify them as expert witnesses in response to paragraph 2i. Even if the listing of these two witnesses is construed to be some type insufficient expert witness disclosure as requested in paragraph 2i, the State did not comply with the expert witnesses disclosure requirements delineated in paragraph 2i or in Rule 16(c)(4), I.C.R. Defendant does not concede and asserts that the Supplemental Disclosure, which identifies Robb Redford and Dr. Karen Neill as witnesses is any type of any expert witness disclosure. In addition, the State's Supplemental Response did not comply with the response the requirements of Rule 16(c)(4).

¹ Defendants Discovery Motion, paragraph 2i, mirrors the requirements of Rule 16(c)(4), I.C.R.

² These witnesses are identified in the police reports

The State's 2nd Supplemental Response again does not disclose Robb Redford and Dr. Karen Neill as expert witnesses as requested in Defendant's Discovery Motion, paragraph 2i. The State again identifies them under paragraph 2g which are fact witnesses not expert witnesses.

B. Late Disclosure of Expert Witnesses.

The State's non-compliant/deficient disclosure was made only thirteen (13) days prior to trial. Defendant assumes the State may assert that Robb Redford and Dr. Karen Neill are expert witnesses who may testify about an alleged victim of domestic violence recanting their prior story about domestic violence. *See supra and infra.*³ The State has been on notice of the alleged victim's statement that she had not been choked or strangled but that she had only been battered by the Defendant since February 2011. The State in its prior discovery responses had never disclosed its intent to call expert witness to testify in this matter until April 20, 2011. The late disclosure is prejudicial to the preparation of Defendant's defense. The State has had months in which to retain and disclose its expert witnesses. The State has not set forth any basis for the untimely late disclosure of the expert witnesses. The State had a duty to supplement its discovery responses but to do so in a timely non-prejudicial manner. The State should not be allowed to take advantage of their expert witnesses testimony when it has not disclosed the so-called expert witnesses in an untimely manner.

In addition, the State's disclosure suggests that Robb Redford and Dr. Neill may engage in further investigation, interviews and/or examinations to supplement their anticipated testimony. This representation by the State further compounds the impact of the State's untimely disclosure

³ Defendant challenges the assertion that the State has disclosed any expert witnesses.

that it will call expert witnesses to testify in this case. Defendant is further prejudiced by the inability to know fully what opinions the expert witnesses may testify to at trial because the State has represented they may do further investigation, interviewing, etc. This further prejudices the Defendant because he cannot adequately prepare for trial and the-so-called expert testimony.

C. The State's disclosure is deficient and does not comply with Rule 16, I.C.R.

Rule 16 of the Idaho Criminal Rules states:

(7) Expert witnesses. Upon written request of the defendant the prosecutor shall provide a written summary or report of any testimony that the state intends to introduce pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence at trial or hearing. The summary provided must describe the witness's opinions, the facts and data for those opinions, and the witness's qualifications. Disclosure of expert opinions regarding mental health shall also comply with the requirements of I.C. § 18-207. The prosecution is not required to produce any materials not subject to disclosure under paragraph (f) of this Rule. This subsection does not require disclosure of expert witnesses, their opinions, the facts and data for those opinions, or the witness's qualifications, intended only to rebut evidence or theories that have not been disclosed under this Rule prior to trial. (Emphasis Added)

The State's response does not comply with the requirements of Rule 16. It does not contain a summary of or the report of the witnesses testimony. The disclosure does not state the witnesses opinions nor the factual basis or data for their opinions as it relates to the facts of this case. The disclosure only indicates in generalities the nature of the testimony to which the experts may testify. The disclosure does not indicate how the proposed testimony relates to the facts of this particular case. Defendant is left to guess as to how the experts testimony may relate to the issues in this case and in particular the issue of an alleged victim of domestic violence recanting their prior story.


In addition, the State's late disclosure indicates the experts witnesses may engage in further investigation, interviews or examinations, etc., to supplement their anticipated testimony.

This exacerbates the impact of the late disclosure and the failure to identify the facts relied upon by the expert witnesses in forming their trial testimony opinions. In addition to having to guess about the nature of the expert witnesses opinion testimony and the facts upon which the opinions are based (because the State has not disclosed that information), Defendant is further left to guess as to how to prepare for trial and for the expert witness testimony because Defendant cannot know what additional information, interviews or facts the expert witnesses may gather or develop in supplementing their current opinions and how those opinions may change prior to or during trial. The State knew of the issues to be presented in this case for months and took no action to comply with Rule 16, until at this late hour. Defendant is prejudiced by the State's late disclosure because it does not know and cannot know what testimony may be presented to the jury by the State's expert witnesses.

CONCLUSION

Based upon the foregoing, Defendant requests the Court to exclude the State's expert witnesses from testifying at trial.

DATED this 21st day of April, 2011.




KENT V. REYNOLDS
Assistant Chief Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24 day of April, 2011, I served a true and correct copy of the **AMENDED BRIEF IN SUPPORT OF OBJECTION AND MOTION IN LIMINE** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile


KENT V. REYNOLDS
Deputy Public Defender

miss

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

v.

ADAM WENDELL HARPER,

Defendant.

CASE NO. CR-2012-13080-FE

DISCOVERY MOTION

COMES NOW the Defendant, Adam Wendell Harper, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the

Discovery Motion

Page - 1

following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

- a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

- b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

- c. Please provide a copy of the defendant's prior criminal record.

- d. Please list books, papers, documents, photographs, tangible objects, buildings,

or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.

- e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting

Attorney has access, or are intended for use by the Prosecuting Attorney as evidence a trial, or obtained from the Defendant.

f. Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

g. Please furnish to the defendant a written list of the names and addresses, and all telephone or cell phone of whatsoever nature of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

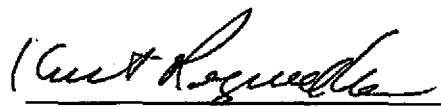
i. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and data for those opinions, and the expert witness's qualifications pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence.

j. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

k. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 22 day of August, 2012.

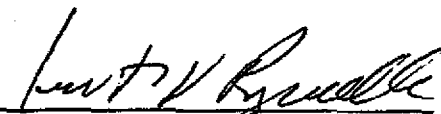

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 22 day of August, 2012, I served a true and correct copy of the **DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail Bannock
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

22
MARK L. HIEDEMAN
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

9-24-2012
SCM
2012-09-24

VIC A. PEARSON, ISB #6429
Chief Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-12-13080-FE-C
Plaintiff,)	
	)	RESPONSE TO
vs.	)	DISCOVERY MOTION
)	
ADAM WENDELL HARPER,)	
)	
Defendant.)	
_____)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through VIC A. PEARSON,
Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
Defendant's Request for Discovery as follows:

REQUEST NO. 1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/ or others who have First Discovery Motion participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

RESPONSE TO DISCOVERY MOTION - Page 1

RESPONSE NO. 1a & b: None known at this time.

REQUEST NO.2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

REQUEST NO. 2a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: For statements made by the defendant, please refer to Pocatello Police Department Offense Report no 12-P15307 located on the Evidence Disc and defendant's interview on DVD attached hereto and incorporated by reference.

REQUEST NO. 2b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: For statements made by a co-defendant, please refer to Pocatello Police Department Offense Report no 12-P15307 located on the Evidence Disc and co-defendant's interview on DVD attached hereto and incorporated by reference.

REQUEST NO. 2c. Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: The defendant's criminal history is located on the Evidence Disc attached hereto and incorporated by reference.

REQUEST NO. 2d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at the Preliminary Hearing and/or trial, or obtained from the Defendant.

RESPONSE NO 2d: Evidence which may be introduced at trial is as follows: interviews, criminal histories, adult rights forms, Department of Health and Welfare Referral and report requests.

REQUEST NO. 2e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting First Discovery Motion Attorney as access, or are intended for use by the Prosecuting Attorney as evidence at the Preliminary Hearing and/or at trial, or obtained from the Defendant. J.


RESPONSE NO 2e: The following books, papers, documents, photographs, tangible objects, buildings or places are either attached hereto and incorporated by reference:

▶ DVD RW Drive (D:) Harper Evid Disc ▶

Files Currently on the Disc (10)

 Jail Recordings

 2012-09-13 REPORT 12-P15307

 adult rights form - S. Linehan & A Harper

 criminal complaint

 dept of health and welfare referral

 Harper Criminal History

 Linehan Criminal History

 probation and parole report request

 T. Marshall response RE State v. Adam Harper (12-P15307) -- EVIDENCE REQUEST

 united states district court report request

REQUEST NO. 2f Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE TO DISCOVERY MOTION - Page 3

RESPONSE NO 2f: There are no known physical/mental examinations, scientific tests or experiments pertaining to this matter.

REQUEST NO. 2g. Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the Preliminary Hearing and/or trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following persons may be called to testify at hearing or trial in this matter:

- **Brook Day, 3332 Poleline Rd #105, Pocatello, 223-9443**
- **Kelcy Day, 3332 Poleline Rd #105, Pocatello, 223-9443**
- **Linessa Linehan, 427 Pheasant Ridge #C, Chubbuck, 380-2604**
- **Delena Soltero-Juarez, 335 W Buell #5, Pocatello, 240-7418 / 200-8747**
- ****Samantha Linehan, 3332 Poleline Rd #108, Pocatello, 223-4947 / 479-4343**
- **Ricky Shafer, 711 N 6th #204, Pocatello, 775-4765 / 680-0348**
- **Quinton Kraus, PPD**
- **Brooks Hanks, BTCAC**
- **Tracy Marshall, PPD**

At the present time, to the best knowledge of the plaintiff, only the aforementioned individuals with an "**" before their name have a record of felony convictions which are attached hereto and incorporated by reference.**

REQUEST NO. 2h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO 2h: For statements made by witnesses Pocatello Police Department Offense Report no 12-P15307 located on the Evidence Disc and witness interview on DVD attached hereto and incorporated by reference.

REQUEST NO. 2i. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

RESPONSE TO DISCOVERY MOTION - Page 4

RESPONSE NO 2i: For reports and memorandum made by a police officer or investigator, please see Pocatello Police Department Offense Report no 12-P15307 located on the Evidence Disc attached hereto and incorporated by reference.

REQUEST NO. 2j. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: For intercepted jail conversation, please see Evidence Disc attached hereto and incorporated by reference.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 20 day of September, 2012.



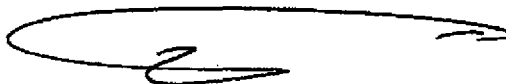
VIC A. PEARSON
Chief Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 20 day of September, 2012, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile



VIC A. PEARSON

Clark JB

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

SEP 12 2012 10:05

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,	)	CASE NO. CR-2012-16445-FE
)	
Plaintiff,)	
)	
v.	)	DISCOVERY MOTION
)	
RYAN JAY PIERCE,)	
)	
Defendant.)	

COMES NOW the Defendant, Ryan Jay Pierce, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the

Discovery Motion
Page - 1

following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

- a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

- b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

- c. Please provide a copy of the defendant's prior criminal record.

- d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.

- e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence a trial, or

Discovery Motion

Page - 2

obtained from the Defendant.

f. Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

g. Please furnish to the defendant a written list of the names and addresses, and all telephone or cell phone of whatsoever nature of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

i. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and data for those opinions, and the expert witness's qualifications pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence.

j. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

k. Any and all statements from conversations between the Defendant and any

third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 18 day of October, 2012.


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18 day of October, 2012, I served a true and correct copy of the **DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail Bannock
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

2012-11-19

MARK L. HIEDEMAN
 BANNOCK COUNTY PROSECUTING ATTORNEY
 P.O. Box P
 Pocatello, Idaho 83205-0050
 (208) 236-7280

JaNIECE PRICE, ISB #7161
 Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-12-16445-FE-B
Plaintiff,)	
	)	RESPONSE TO REQUEST
vs.	)	FOR DISCOVERY
)	
RYAN JAY PIERCE,)	
)	
Defendant.)	
_____)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
 Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
 Defendant's Request for Discovery as follows:

REQUEST NO. 1. Defendant requests that the Prosecutor disclose to
 defense counsel all material or information specified for automatic disclosure within the
 prosecutor's possession or control, or which thereafter comes within the prosecutor's
 possession or control, including material or information within the possession or control
 of the prosecutor's staff and/ or others who have First Discovery Motion participated in
 the investigation or evaluation of this case who either regularly report, or with reference

to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1a&b: None known at this time.

REQUEST NO.2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

REQUEST NO. 2a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: For statements made by the defendant, please refer to Pocatello Police Department Offense Report #12-P20506 and the defendant's interview, both of which are located on the Evidence Disc which is attached hereto and incorporated by reference.

REQUEST NO. 2b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There are no known co-defendants.

REQUEST NO. 2c. Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: The defendant's criminal history is attached hereto and incorporated by reference.

REQUEST NO. 2d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at the Preliminary Hearing and/or trial, or obtained from the Defendant.

RESPONSE NO 2d: Evidence which may be introduced at trial is as follows

► DVD RW Drive (D:) Pierce Evid Disc ►

Files Currently on the Disc (16)

PHOTOS OF ERICKSEN	criminal complaint
PHOTOS OF ERICKSEN - FOLLOW UP	file_list
PHOTOS OF PIERCE	Joel Weinheimer email - no notes
PHOTOS OF SCENE	Mike Ballard email - no notes
01_Pierce_208-317-9452_10-12-12_2053	Pierce Criminal History
2012-10-31 REPORT 12-P20506	PIERCE interview
background information	RE State v. Ryan Pierce -- K Matthews no notes
call	victim services supplements

re (D:) Pierce Evid Disc ► PHOTOS OF ERICKSEN

re (D:) Pierce Evid Disc ► PHOTOS OF ERICKSEN - FOLLOW UP

Files Currently on the Disc (11)

12-P20506 001	12-P20506 007
12-P20506 002	12-P20506 015
12-P20506 003	12-P20506 016
12-P20506 004	12-P20506 017
12-P20506 005	12-P20506 018
12-P20506 006	

Files Currently on the Disc (6)

100_0089	100_0094
100_0090	
100_0091	
100_0092	
100_0093	

re (D:) Pierce Evid Disc ► PHOTOS OF PIERCE

re (D:) Pierce Evid Disc ► PHOTOS OF SCENE

Files Currently on the Disc (3)

12-P20506 008
12-P20506 009
12-P20506 010

Files Currently on the Disc (4)

12-P20506 011
12-P20506 012
12-P20506 013
12-P20506 014

REQUEST NO. 2e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting First Discovery Motion Attorney as access, or are intended for use by the Prosecuting Attorney as evidence at the Preliminary Hearing and/or at trial, or obtained from the Defendant. J.

RESPONSE NO 2e: The items listed in Response No 2d are located on the Evidence Disc attached hereto and incorporated by reference.

REQUEST NO. 2f Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO 2f: There are no known physical/mental examinations, scientific tests or experiments pertaining to this matter.

REQUEST NO. 2g. Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the Preliminary Hearing and/or trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following persons may be called to testify at hearing or trial in this matter:

- Jamie Ericksen, 1900 W Quinn Rd #111, Pocatello, 317-9810
- Nick Peterson, PPD
- Mike Ballard, PPD
- Joel Weinheimer, PPD
- Kristen Matthews, PPD
- Niko Gordon, PPD

At the present time, to the best knowledge of the plaintiff, only the aforementioned individuals with an "*" before their name have a record of felony convictions which are attached hereto and incorporated by reference.

REQUEST NO. 2h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO 2h: For statements made by witnesses, Pocatello Police Department Offense Report #12-P20506, attached hereto and incorporated by reference.

REQUEST NO. 2i. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

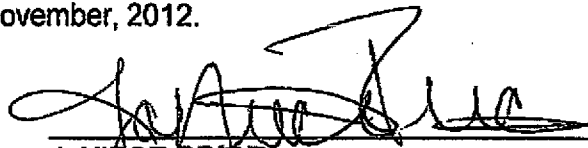
RESPONSE NO 2i: For reports and memorandum made by a police officer or investigator, Pocatello Police Department Offense Report #12-P20506, attached hereto and incorporated by reference.

REQUEST NO. 2j. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: There is one intercepted jail conversation located on the Evidence Disc attached hereto and incorporated by reference.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 15th day of November, 2012.

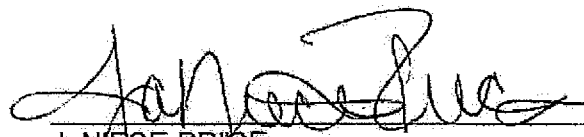

JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 15th day of November, 2012, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile


JANIECE PRICE

CAN
RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

v.

JOHN J. TRUSSELL,

Defendant.

CASE NO. CR-2013-00534-FE

DISCOVERY MOTION

COMES NOW the Defendant, John J. Trussell, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the

following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

c. Please provide a copy of the defendant's prior criminal record.

d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.

e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence a trial, or

obtained from the Defendant.

f. Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

g. Please furnish to the defendant a written list of the names and addresses, and all telephone or cell phone of whatsoever nature of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

i. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and data for those opinions, and the expert witness's qualifications pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence.

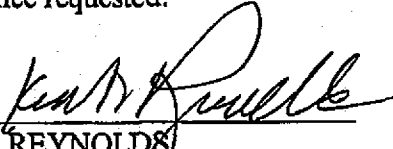
j. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

k. Any and all statements from conversations between the Defendant and any

third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 18 day of January, 2013.


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18 day of January, 2013, I served a true and correct copy of the **DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail Bannock
☐ Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

2013 -017 301

JaNIECE PRICE, ISB# 7161
Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-534-FE
Plaintiff,)	
	)	RESPONSE TO REQUEST
vs.	)	FOR DISCOVERY
)	
JOHN J. TRUSSEL,)	
)	
Defendant.)	
_____)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE, Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to Defendant's Request for Discovery as follows:

1. Defendant request that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the

RESPONSE - Page 1

office of the prosecutor. The items specified for automatic disclosure include the following:

- a. All evidence which tends to negate the guilt of the accused in this offense.

RESPONSE NO. 1a: None known at this time.

- b. All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1a: None known at this time.

2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

- a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: Please refer to the enclosed copy of the Pocatello Police Department Report, LI #13-P00686 and enclosed CD.

- b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There is no co-defendant in this case.

- c. Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: Please refer the enclosed copy of the defendant's prior criminal record.

- d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or

are intended for use for evidence at trial, or obtained from the Defendant.

RESPONSE NO. 2d: The following is a list of evidence that may used at the time of trial: Pocatello Police Department Report, LI #13-P00686, enclosed CD, and the defendant's criminal history.

e. To permit the Defendant to inspect, copy of photograph books, papers, documents, photographs, tangible objects, buildings, places, or copies of portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence at trial, or obtained from the Defendant.

RESPONSE NO. 2e: The defense counsel may schedule an appointment convenient for both parties to inspect any items in the State's possession pertaining to this case.

f. Please provide a list of and permit the defendant to inspect, copy of photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO. 2f: None known at this time.

g. Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO. 2g: The following list of individuals may be called to testify at the time of trial:

Robert Sampson – Pocatello Police Department

Elizabeth Garner – Pocatello Police Department

William Brown – Pocatello Police Department

Justin Buck – Pocatello Police Department

John Bates – Pocatello Police Department

Tonique Trussel – 956 E. Center St., Pocatello, ID

At the present time, to the best knowledge of the plaintiff, the aforementioned individuals have no record of felony convictions.

h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO. 2h: Please refer to response no. 2d.

i. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and the data for those opinions, and the expert witness's qualifications pursuant to Rules 7102, 703 and 705 of the Idaho Rules of Evidence.

RESPONSE NO. 2i: Please refer to response no. 2d.

j. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of this case.

RESPONSE NO. 2j: None known at this time.

k. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other facility.


RESPONSE - Page 4

RESPONSE NO. 2k: Please refer to enclosed CD.

The State understands its duty under Rule 16.

The State reserves the right to supplement this response as needed.

DATED this 29th day of January, 2013.




JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 29th day of January, 2013, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☐ hand delivery
☐ facsimile
☒ courthouse mailbox



JANIECE PRICE

Evans
RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
13 JAN 31 PM 4:10

COPY

BY _____
DEPUTY

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

v.

JORDAN O DYE,

Defendant.

CASE NO. CR-2013-00978-FE

DISCOVERY MOTION

COMES NOW the Defendant, Jordan O. Dye, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the

Discovery Motion
Page - 1

following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
 - b. All evidence which would tend to reduce the punishment in this case.
2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:
- a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.
 - b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.
 - c. Please provide a copy of the defendant's prior criminal record.
 - d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.
 - e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence a trial, or

Discovery Motion

Page - 2

obtained from the Defendant.

f. Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

g. Please furnish to the defendant a written list of the names and addresses, and all telephone or cell phone of whatsoever nature of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

i. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and data for those opinions, and the expert witness's qualifications pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence.

j. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

k. Any and all statements from conversations between the Defendant and any

third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 30 day of January, 2013.


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30 day of January, 2013, I served a true and correct copy of the **DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail Bannock
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

22813

JaNIECE PRICE, ISB #7161
Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,
Plaintiff,

vs.

JORDAN ODELL DYE,
Defendant.

CASE NO. CR-13-978-FE

RESPONSE TO REQUEST
FOR DISCOVERY

2013 -02-15

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the
Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,

Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to

Defendant's Request for Discovery as follows:

REQUEST NO. 1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/ or others who have First Discovery Motion participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1a & b: None known at this time.

REQUEST NO.2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

REQUEST NO. 2a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: For statements made by the defendant, please refer to Pocatello Police Department police report, LI#12-P24530 located on the Evidence Disc and defendant's recorded interview on DVD which are attached hereto and incorporated by reference.

REQUEST NO. 2b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.







RESPONSE NO. 2b: There are no known co-defendants.

REQUEST NO. 2c. Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: The defendant's criminal history located on the Evidence CD attached hereto and incorporated by reference.







REQUEST NO. 2d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at the Preliminary Hearing and/or trial, or obtained from the Defendant.

RESPONSE NO 2d: Evidence which may be introduced at trial is as follows: interviews of Dye and Albertson on DVDs and ...

 2013-01-23 REPORT 12-P24530
 adult rights form
 Dye Criminal History
 forensic interview notes
 jordan albertson student info
 officer notes

REQUEST NO. 2e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting First Discovery Motion Attorney as access, or are intended for use by the Prosecuting Attorney as evidence at the Preliminary Hearing and/or at trial, or obtained from the Defendant. J.

RESPONSE NO 2e: The following books, papers, documents, photographs, tangible objects, buildings or places are either attached hereto and incorporated by reference: interviews of Dye and Albertson on DVDs and ...

 2013-01-23 REPORT 12-P24530
 adult rights form
 Dye Criminal History
 forensic interview notes
 jordan albertson student info
 officer notes

REQUEST NO. 2f Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO 2f: For physical/mental examinations, scientific tests or experiments pertaining to this matter, please see previous responses.

REQUEST NO. 2g. Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the Preliminary Hearing and/or trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following persons may be called to testify at hearing or trial in this matter:

- Jordan Albertson, 1405 N Garfield, Pocatello, 241-2864 / 223-4219
- Laura Shepherd, 1405 N Garfield, Pocatello, 241-2864 / 234-0713
- Aleah Coleman, 660 Park Lane, Pocatello, 241-4560
- Forrest Peck, PPD
- Quinton Kraus, PPD

At the present time, to the best knowledge of the plaintiff, only the aforementioned individuals with an "*" before their name have a record of felony convictions which are attached hereto and incorporated by reference.

REQUEST NO. 2h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO 2h: For statements made by witnesses, please see Pocatello Police Department police report, LI#12-P24530, attached hereto and incorporated by reference.

REQUEST NO. 2i. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

RESPONSE NO 2i: For reports and memorandum made by a police officer or investigator, please see Pocatello Police Department police report, LI#12-P24530 and officer notes located on the Evidence Disc attached hereto and incorporated by reference.

REQUEST NO. 2j. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: For intercepted jail conversations, please contact the Bannock County Jail.

The State reserves the right to supplement this response upon receipt of such evidence

DATED this 13th day of February, 2013.



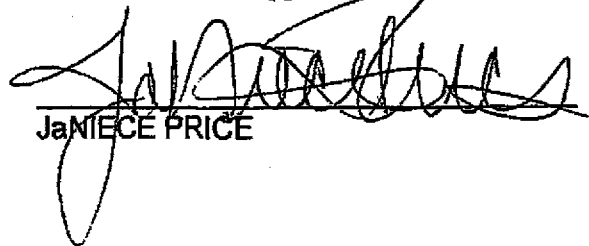
JaNIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 13th day of February, 2013, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile



JaNIECE PRICE

Clark

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
13 MAR 25 PM 4:37

COPIES

BY _____ DEPUTY

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

v.

JOSHUA L. LENON,

Defendant.

CASE NO. CR-2013-03604-FE

DISCOVERY MOTION

COMES NOW the Defendant, Joshua L. Lenon, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the

Discovery Motion
Page - 1

following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

c. Please provide a copy of the defendant's prior criminal record.

d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.

e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence a trial, or

Discovery Motion

Page - 2

obtained from the Defendant.

f. Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

g. Please furnish to the defendant a written list of the names and addresses, and all telephone or cell phone of whatsoever nature of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

i. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and data for those opinions, and the expert witness's qualifications pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence.

j. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

k. Any and all statements from conversations between the Defendant and any

third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 25th day of March, 2013.

Kent V. Reynolds
KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ____ day of March, 2013, I served a true and correct copy of the **DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail Bannock
<input type="checkbox"/>	Facsimile

Kent V. Reynolds
KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

2013 -04-11

STEPHEN F. HERZOG
 BANNOCK COUNTY PROSECUTING ATTORNEY
 P.O. Box P
 Pocatello, Idaho 83205-0050
 (208) 236-7280

JaNIECE PRICE, ISB# 7161
 Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-3604-FE
Plaintiff,)	
	)	RESPONSE TO REQUEST
vs.	)	FOR DISCOVERY
)	
JOSHUA L. LENON,)	
)	
Defendant.)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE,
 Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to
 Defendant's Request for Discovery as follows:

1. Defendant request that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the

RESPONSE - Page 1

following:

- a. All evidence which tends to negate the guilt of the accused in this offense.

RESPONSE NO. 1a: None known at this time.

- b. All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1a: None known at this time.

2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

- a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: Please refer to the enclosed copy of the Pocatello Police Department Report, LI #13-P04369.

- b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: Please see Response No. 2a.

- c. Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: Please refer the enclosed copy of the defendant's prior criminal record.

- d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.

RESPONSE - Page 2

RESPONSE NO. 2d: The following is a list of evidence that may used at the time of trial: Pocatello Police Department Report, LI #13-P04369, enclosed CD, and a copy of the defendant's criminal history.

e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places, or copies of portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence at trial, or obtained from the Defendant.

RESPONSE NO. 2e: The defense counsel may schedule an appointment convenient for both parties to inspect any items in the State's possession pertaining to this case.

f. Please provide a list of and permit the defendant to inspect, copy of photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO. 2f: None known at this time.

g. Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO. 2g: The following list of individuals may be called to testify at the time of trial:

J. Webster -- Pocatello Police Department

A. Lacey – Pocatello Police Department
J. Hancock – Pocatello Police Department
E. Anderson – Pocatello Police Department
P. Boll – Pocatello Police Department
J. Bates – Pocatello Police Department
A. Jackson – Pocatello Police Department
B. McClure – Pocatello Police Department
T. Marshall – Pocatello Police Department
Deputy Everson – Bannock County Sheriff's Office
Mattie Rice – 538 N. Main St.; #222, Pocatello, ID
Dorla Odaniel – 538 N. Main St.; #111, Pocatello, ID
Tim Allison – 538 N. Main St.; #205, Pocatello, ID
Anthony Lepisto – 845 Barton Rd.; #127, Pocatello, ID
Melissa Godfrey – 538 N. Main St.; #108, Pocatello, ID
Becky Rodriguez – Pocatello Police Department
Brandy Romriell – 1002 E. Poplar St.; #2, Pocatello, ID

At the present time, to the best knowledge of the plaintiff, the aforementioned individuals have no record of felony convictions.

h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO. 2h: Please refer to response no. 2d.

i. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and the data for those opinions, and the expert witness's qualifications pursuant

RESPONSE - Page 4

to Rules 7102, 703 and 705 of the Idaho Rules of Evidence.

RESPONSE NO. 2i: Please refer to response no.2d.

j. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of this case.

RESPONSE NO. 2j: None known at this time.

k. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other facility.

RESPONSE NO. 2k: Please refer to enclosed CD.

The State understands its duty under Rule 16.

The State reserves the right to supplement this response as needed.

DATED this 8th day of April, 2013.



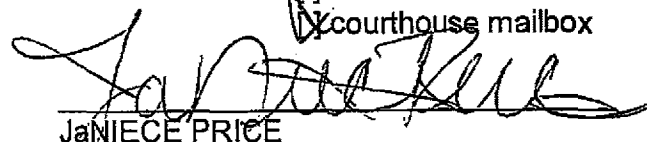
JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 8th day of April, 2013, a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☐ hand delivery
☐ facsimile
☒ courthouse mailbox



JANIECE PRICE

FILED
HANNOCK COUNTY
CLERK OF THE COURT
2013 AUG -8 PM 4:23
BY DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

CASE NO. CR-2013-10474-FE

DISCOVERY MOTION

Defendant.

1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the

836 of 1217

following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
 - b. All evidence which would tend to reduce the punishment in this case.
2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:
- a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.
 - b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.
 - c. Please provide a copy of the defendant's prior criminal record.
 - d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.
 - e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence a trial, or

Discovery Motion

Page - 2

obtained from the Defendant.

f. Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

g. Please furnish to the defendant a written list of the names and addresses, and all telephone or cell phone of whatsoever nature of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

i. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and data for those opinions, and the expert witness's qualifications pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence.

j. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

k. Any and all statements from conversations between the Defendant and any

third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 8 day of August, 2013.

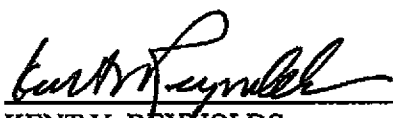

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8 day of August, 2013, I served a true and correct copy of the **DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail Bannock
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

KR

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

2013-02-13

JaNIECE PRICE, ISB# 7161
Assistant Chief Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-10474-FE
Plaintiff,)	
	)	RESPONSE TO DISCOVERY MOTION
vs.)	
)	
JESSE LEE CONVERSE,)	
)	
Defendant.)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE, Assistant Chief Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to Defendant's Discovery Motion as follows:

REQUEST NO. 1: Defendant requests that the Prosecutor disclosure to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes with the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have

RESPONSE - Page 1

reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

REQUEST NO. 1a: All evidence which tends to negate the guilt of the accused in this offense.

RESPONSE NO. 1a: None known at this time.

REQUEST NO. 1b: All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1b: None known at this time.

REQUEST NO. 2: Defendant provides this written request that the prosecutor disclosure the following information, evidence and material to defense counsel:

REQUEST NO. 2a: Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: Please refer to the enclosed copy of the Pocatello Police Department police report, LI#13-P14460 and the ICOP dvd.

REQUEST NO. 2b: Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statements made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There is no co-defendant in this case.

REQUEST NO. 2c.: Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: Please see the enclosed defendant's prior criminal history.

REQUEST NO. 2d: Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.

RESPONSE NO 2d: The following is a list of items that may be used as evidence at the time trial:

- Pocatello Police Department police report, L.I. #13-P14460 (enclosed)
- ICOP DVD (enclosed)
- CD of Photographs (enclosed)
- Criminal history for Defendant (enclosed)
- Idaho State Police Forensic Services laboratory results (will be provided upon receipt)
- Clear glass pipe (Property number P151757)
- Suspected Methamphetamine (Property number P151758)

REQUEST NO. 2e: To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence at trial, or obtained from the Defendant.

RESPONSE NO 2e: The defense counsel may schedule an appointment convenient for both parties to inspect any items in the State's possession pertaining to this case.

REQUEST NO. 2f: Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, which

the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO. 2f: Please refer to the enclosed Idaho State Police Forensic Services Laboratory Results.

REQUEST NO. 2g: Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following list of individuals may be called to testify at the time of trial:

- Scientist who tested the drugs – Idaho State Police Forensic Services
- Jared Bowman – Pocatello Police Department
- Derek Daniels – Pocatello Police Department
- Kenneth McClure – Pocatello Police Department
- Elizabeth Garner – Pocatello Police Department
- Chad Higbee – Pocatello Police Department
- Jake Schubert – Pocatello Police Department
- John Kempf – Idaho State Police Investigations
- Ryan Blackhawk – Idaho State Police Investigations
- Frank Csajko – Idaho State Police Investigations

At the present time, to the best knowledge of the plaintiff, the aforementioned individuals have no record of felony convictions.

REQUEST NO. 2h: Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO 2h: Please refer to response number 2a.

REQUEST NO. 2i: Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

RESPONSE NO. 2i: Please refer to response number 2a.


REQUEST NO. 2j: Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: Can be made available upon further request of this office by appointment.

The Defendant requests responses to the foregoing requests and copies of documents by 5:00 p.m. on the Fourteenth day from the date of filing of this document at the Public Defender's in-box, Room 220, Bannock County Courthouse, Pocatello, Idaho. Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

The State reserves the right to supplement this entire Response to Discovery Motion upon receipt of such evidence.

DATED this 12th day of August, 2013.



JaNIECE PRICE
Assistant Chief Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 12th day of August, 2013, a true and correct copy of the foregoing RESPONSE TO DISCOVERY MOTION was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☐ hand delivery
☐ facsimile
☒ courthouse mailbox


JaNIECE PRICE

Carson
RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2013 AUG 26 PM 4:11
BY _____
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

v.

JOSEPH ALAN KNIGHT,

Defendant.

CASE NO. CR-2013-11340-FE

DISCOVERY MOTION

COMES NOW the Defendant, Joseph Alan Knight, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the

Discovery Motion

Page - 1

following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

c. Please provide a copy of the defendant's prior criminal record.

d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.

e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence a trial, or

obtained from the Defendant.

f. Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

g. Please furnish to the defendant a written list of the names and addresses, and all telephone or cell phone of whatsoever nature of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

i. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and data for those opinions, and the expert witness's qualifications pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence.

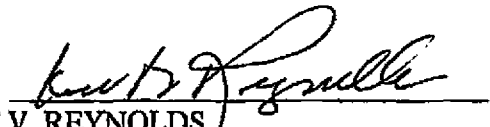
j. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

k. Any and all statements from conversations between the Defendant and any

third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 26 day of August, 2013.


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26 day of August, 2013, I served a true and correct copy of the **DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail Bannock
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

KR
STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

2013 -08- 27

JaNIECE PRICE, ISB# 7161
Assistant Chief Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-11340-FE
Plaintiff,)	
	)	RESPONSE TO DISCOVERY MOTION
vs.)	
)	
JOSEPH ALLEN KNIGHT,)	
)	
Defendant.)	
_____)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE, Assistant Chief Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to Defendant's Discovery Motion as follows:

REQUEST NO. 1: Defendant requests that the Prosecutor disclosure to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes with the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have

RESPONSE - Page 1

reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

REQUEST NO. 1a: All evidence which tends to negate the guilt of the accused in this offense.

RESPONSE NO. 1a: None known at this time.

REQUEST NO. 1b: All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1b: None known at this time.

REQUEST NO. 2: Defendant provides this written request that the prosecutor disclosure the following information, evidence and material to defense counsel:

REQUEST NO. 2a: Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: Please refer to the enclosed copy of the Pocatello Police Department police report, LI#13-P11683.

REQUEST NO. 2b: Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statements made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: Please refer to Response no. 1.

REQUEST NO. 2c.: Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: Please see the enclosed defendant's prior criminal history.

RESPONSE - Page 2

REQUEST NO. 2d: Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.

RESPONSE NO 2d: The following is a list of items that may be used as evidence at the time trial:

- Pocatello Police Department police report, L.I. #13-P11683 (enclosed)
- DVD pre/post search DVD (enclosed)
- CD of Photos (enclosed)
- Criminal history for Defendant (enclosed)
- Idaho State Police Forensic Services lab results (will be provided upon receipt)
- All evidence and property as listed in the report

REQUEST NO. 2e: To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence at trial, or obtained from the Defendant.

RESPONSE NO 2e: The defense counsel may schedule an appointment convenient for both parties to inspect any items in the State's possession pertaining to this case.

REQUEST NO. 2f: Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, which are in the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE - Page 3

RESPONSE NO. 2f: The Idaho State Police Forensic Services Laboratory Results will be provided upon receipt.

REQUEST NO. 2g: Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following list of individuals may be called to testify at the time of trial:

- Scientist that tested the drugs – Idaho State Police Forensic Services
- Bryan Harris – Pocatello Police Department
- Reid Morrell – Pocatello Police Department
- Brian McClure – Pocatello Police Department
- Adrian Wadsworth – Pocatello Police Department
- Chad Higbee – Pocatello Police Department
- Nathan Diekemper – Pocatello Police Department
- Theo Vanderschaaf – Pocatello Police Department
- Tom Foltz – Bannock County Sheriff's Department
- Officer Yanez – Pocatello Police Department
- Jordan Johnson – Pocatello Police Department
- Toni Vollmer – Bannock County Sheriff's Department

At the present time, to the best knowledge of the plaintiff, the aforementioned individuals have no record of felony convictions.

REQUEST NO. 2h: Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO 2h: Please refer to response number 2a.

REQUEST NO. 2i: Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

RESPONSE NO. 2i: Please refer to response number 2a.

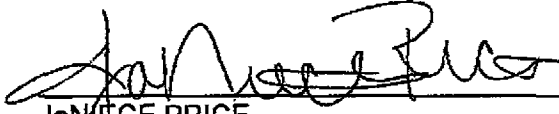
REQUEST NO. 2j: Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: Can be made available upon further request of this office by appointment.

The Defendant requests responses to the foregoing requests and copies of documents by 5:00 p.m. on the Fourteenth day from the date of filing of this document at the Public Defender's in-box, Room 220, Bannock County Courthouse, Pocatello, Idaho. Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

The State reserves the right to supplement this entire Response to Discovery Motion upon receipt of such evidence.

DATED this 27th day of August, 2013.



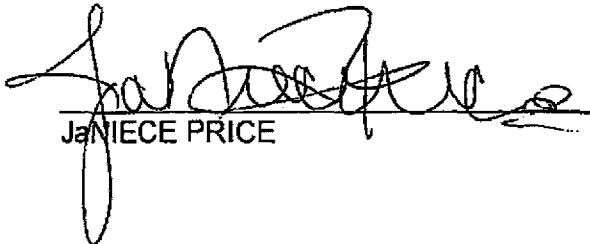
JANIECE PRICE
Assistant Chief Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 27th day of August, 2013, a true and correct copy of the foregoing RESPONSE TO DISCOVERY MOTION was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☐ hand delivery
☐ facsimile
☒ courthouse mailbox



JANIECE PRICE

ms
RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

FILED
BANNOCK COUNTY
CLERK OF DISTRICT COURT
2013 NOV-19 PM 4:15
BY _____
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

v.

MINDY LEE MARTIN,

Defendant.

CASE NO. CR-2013-14419-FE

DISCOVERY MOTION

COMES NOW the Defendant, Mindy Lee Martin, by and through her attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the

Discovery Motion
Page - 1

following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

- a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

- b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

- c. Please provide a copy of the defendant's prior criminal record.

- d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.

- e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence a trial, or

obtained from the Defendant.

f. Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

g. Please furnish to the defendant a written list of the names and addresses, and all telephone or cell phone of whatsoever nature of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

i. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and data for those opinions, and the expert witness's qualifications pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence.


j. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

k. Any and all statements from conversations between the Defendant and any

third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 19 day of November, 2013.


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19 day of November, 2013, I served a true and correct copy of the **DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail Bannock
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

LR

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JaNIECE PRICE, ISB# 7161
Assistant Chief Deputy Prosecuting Attorney

2013 -11- 26

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-14419-FE
Plaintiff,)	
	)	RESPONSE TO DISCOVERY MOTION
vs.)	
)	
MINDY LEE MARTIN,)	
)	
Defendant.)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE, Assistant Chief Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to Defendant's Discovery Motion as follows:

REQUEST NO. 1: Defendant requests that the Prosecutor disclosure to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes with the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have

RESPONSE - Page 1

reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

REQUEST NO. 1a: All evidence which tends to negate the guilt of the accused in this offense.

RESPONSE NO. 1a: None known at this time.

REQUEST NO. 1b: All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1b: None known at this time.

REQUEST NO. 2: Defendant provides this written request that the prosecutor disclosure the following information, evidence and material to defense counsel:

REQUEST NO. 2a: Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: Please refer to the enclosed copy of the Pocatello Police Department police report, LI#13-P17391 and interviews of the defendant.

REQUEST NO. 2b: Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statements made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There is no co-defendant in this case.

REQUEST NO. 2c.: Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: Please see the enclosed defendant's prior criminal history.

REQUEST NO. 2d: Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.

RESPONSE NO 2d: The following is a list of items that may be used as evidence at the time trial:

- Pocatello Police Department police report, L.I. #13-P17391 (enclosed)
- Criminal history for Defendant (enclosed)
- CD of Photos, Interviews & Medical Records (enclosed)
- Health & Welfare report referral (enclosed)
- Health & Welfare report request (enclosed)
- HIPPA form (enclosed)

REQUEST NO. 2e: To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence at trial, or obtained from the Defendant.

RESPONSE NO 2e: The defense counsel may schedule an appointment convenient for both parties to inspect any items in the State's possession pertaining to this case.

REQUEST NO. 2f: Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, which are in the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO. 2f: Please refer to the enclosed Medical Records.

REQUEST NO. 2g: Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following list of individuals may be called to testify at the time of trial:

- William Brown – Pocatello Police Department
- Nathan Diekemper – Pocatello Police Department
- Deanna Brennan – Health & Welfare
- Trina Coleman – Health & Welfare
- Melanie Prince – Social Worker
- Sandy Christiansen – Case manager PMC

At the present time, to the best knowledge of the plaintiff, the aforementioned individuals have no record of felony convictions.

REQUEST NO. 2h: Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO 2h: Please refer to response number 2a.

REQUEST NO. 2i: Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

RESPONSE NO. 2i: Please refer to response number 2a.

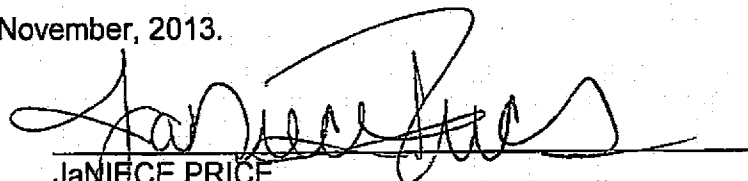
REQUEST NO. 2j: Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: Can be made available upon further request of this office by appointment.

The Defendant requests responses to the foregoing requests and copies of documents by 5:00 p.m. on the Fourteenth day from the date of filing of this document at the Public Defender's in-box, Room 220, Bannock County Courthouse, Pocatello, Idaho. Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

The State reserves the right to supplement this entire Response to Discovery Motion upon receipt of such evidence.

DATED this 20th day of November, 2013.

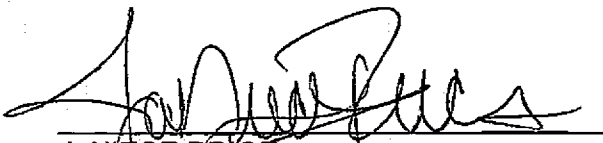

JANIECE PRICE
Assistant Chief Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 22nd day of November, 2013, a true and correct copy of the foregoing RESPONSE TO DISCOVERY MOTION was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☐ hand delivery
☐ facsimile
☒ courthouse mailbox



JANIECE PRICE

Womsen

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

2014 JUL -5 10 46 10

57 DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,)	
	)	CASE NO. CR-2014-06583-FE
Plaintiff,)	
)	
v.	)	DISCOVERY MOTION
)	
BROOKE ALEE BERRY,)	
)	
Defendant.)	

COMES NOW the Defendant, Brooke Alee Berry, by and through her attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the

following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
 - b. All evidence which would tend to reduce the punishment in this case.
2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:
- a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.
 - b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.
 - c. Please provide a copy of the defendant's prior criminal record.
 - d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.
 - e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence a trial, or

obtained from the Defendant.

f. Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

g. Please furnish to the defendant a written list of the names and addresses, and all telephone or cell phone of whatsoever nature of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

i. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and data for those opinions, and the expert witness's qualifications pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence.

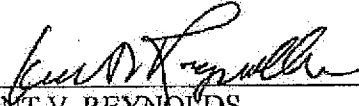
j. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

k. Any and all statements from conversations between the Defendant and any

third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 3 day of June, 2014.

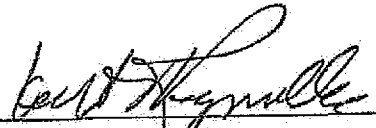

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3 day of June, 2014, I served a true and correct copy of the **DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail Bannock
☐ Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

SR
STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

2014-06-10

JaNIECE PRICE, ISB# 7161
Assistant Chief Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2014-6583-FE
Plaintiff,)	
	)	RESPONSE TO DISCOVERY MOTION
vs.)	
)	
BROOKE ALEE BERRY,)	
)	
Defendant.)	
_____)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE, Assistant Chief Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to Defendant's Discovery Motion as follows:

REQUEST NO. 1: Defendant requests that the Prosecutor disclosure to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes with the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have

RESPONSE - Page 1

reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

REQUEST NO. 1a: All evidence which tends to negate the guilt of the accused in this offense.

RESPONSE NO. 1a: None known at this time.

REQUEST NO. 1b: All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1b: None known at this time.

REQUEST NO. 2: Defendant provides this written request that the prosecutor disclosure the following information, evidence and material to defense counsel:

REQUEST NO. 2a: Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: Please refer to the enclosed copy of the Pocatello Police Department police report, LI#14-P05550.

REQUEST NO. 2b: Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statements made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There is no co-defendant in this case.

REQUEST NO. 2c.: Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: Please see the enclosed defendant's prior criminal history.

REQUEST NO. 2d: Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.

RESPONSE NO 2d: The following is a list of items that may be used as evidence at the time trial:

- Pocatello Police Department police report, L.I. #14-P05550 (enclosed)
- Photographs (enclosed)
- Dispatch call (enclosed)
- Criminal history for Defendant (enclosed)
- Idaho State Police Forensic Services laboratory results (enclosed)
- Bag with Paraphernalia (Property number P158151)
- Glass meth pipe (Property number P158153)

REQUEST NO. 2e: To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence at trial, or obtained from the Defendant.

RESPONSE NO 2e: The defense counsel may schedule an appointment convenient for both parties to inspect any items in the State's possession pertaining to this case.

REQUEST NO. 2f: Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, which

the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO. 2f: Please refer to the enclosed Idaho State Police Forensic Services Laboratory Results.

REQUEST NO. 2g: Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following list of individuals may be called to testify at the time of trial:

- Tina Mattox – Idaho State Police Forensic Services
- Elizabeth Garner – Pocatello Police Department
- Anthony Busch – Pocatello Police Department
- Paula Smith – known to the defendant

At the present time, to the best knowledge of the plaintiff, the aforementioned individuals have no record of felony convictions.

REQUEST NO. 2h: Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO 2h: Please refer to response number 2a.

REQUEST NO. 2i: Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

RESPONSE NO. 2i: Please refer to response number 2a.

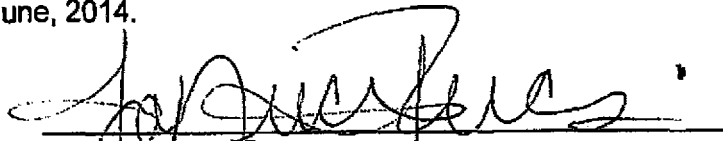
REQUEST NO. 2j: Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: Can be made available upon further request of this office by appointment.

The Defendant requests responses to the foregoing requests and copies of documents by 5:00 p.m. on the Fourteenth day from the date of filing of this document at the Public Defender's in-box, Room 220, Bannock County Courthouse, Pocatello, Idaho. Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

The State reserves the right to supplement this entire Response to Discovery Motion upon receipt of such evidence.

DATED this 9th day of June, 2014.

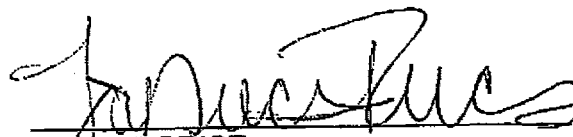

JANIECE PRICE
Assistant Chief Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 9th day of June, 2014, a true and correct copy of the foregoing RESPONSE TO DISCOVERY MOTION was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☐ hand delivery
☐ facsimile
☒ courthouse mailbox



JANIECE PRICE

Mark
RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

CLERK OF THE COURT
2014 JUL 13 PM 4:06
BY DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

v.

TANNER CHRISTOPHER BILLS,

Defendant.

CASE NO. CR-2014-07783-FE

DISCOVERY MOTION

COMES NOW the Defendant, Tanner Christopher Bills, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the

Discovery Motion

Page - 1

following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
 - b. All evidence which would tend to reduce the punishment in this case.
2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:
- a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.
 - b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.
 - c. Please provide a copy of the defendant's prior criminal record.
 - d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.
 - e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence a trial, or

Discovery Motion

Page - 2

obtained from the Defendant.

f. Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

g. Please furnish to the defendant a written list of the names and addresses, and all telephone or cell phone of whatsoever nature of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

i. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and data for those opinions, and the expert witness's qualifications pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence.

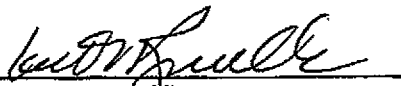
j. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

k. Any and all statements from conversations between the Defendant and any

third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 13 day of June, 2014.

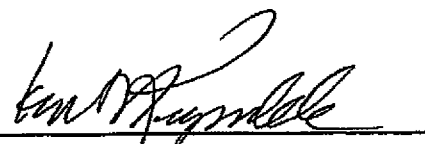

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13 day of June, 2014, I served a true and correct copy of the **DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail Bannock
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

2014-06-24

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JaNIECE PRICE, ISB# 7161
Assistant Chief Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2014-7783-FE
Plaintiff,)	
	)	RESPONSE TO DISCOVERY MOTION
vs.)	
)	
TANNER CHRISTOPHER BILLS,)	
)	
Defendant.)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE, Assistant Chief Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to Defendant's Discovery Motion as follows:

REQUEST NO. 1: Defendant requests that the Prosecutor disclosure to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes with the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have

RESPONSE - Page 1.

reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

REQUEST NO. 1a: All evidence which tends to negate the guilt of the accused in this offense.

RESPONSE NO. 1a: None known at this time.

REQUEST NO. 1b: All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1b: None known at this time.

REQUEST NO. 2: Defendant provides this written request that the prosecutor disclosure the following information, evidence and material to defense counsel:

REQUEST NO. 2a: Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: Please refer to the enclosed copy of the Pocatello Police Department police report, LI#13-P24732.

REQUEST NO. 2b: Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statements made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There is no co-defendant in this case.

REQUEST NO. 2c: Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: Please see the enclosed defendant's prior criminal history.

REQUEST NO. 2d: Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.

RESPONSE NO 2d: The following is a list of items that may be used as evidence at the time trial:

- Pocatello Police Department police report, L.I. #13-P24732 (enclosed)
- Criminal history for Defendant (enclosed)
- Idaho State Police Forensic Services laboratory results (enclosed)
- 2 Oxycodone (Property number P155777)
- 4 Oxycodone (Property number P157834)

REQUEST NO. 2e: To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence at trial, or obtained from the Defendant.

RESPONSE NO 2e: The defense counsel may schedule an appointment convenient for both parties to inspect any items in the State's possession pertaining to this case.

REQUEST NO. 2f: Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, which are in the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO. 2f: Please refer to the enclosed Idaho State Police Forensic Services Laboratory Results.

REQUEST NO. 2g: Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following list of individuals may be called to testify at the time of trial:

- Scott Hellstrom – Idaho State Police Forensic Services
- Brian McClure – Pocatello Police Department
- Adrian Wadsworth – Pocatello Police Department
- Bryan Harris – Pocatello Police Evidence
- Chad Higbee – Pocatello Police Department
- Reid Morrell – Pocatello Police Department
- Theo Vanderschaaf – Pocatello Police Department

At the present time, to the best knowledge of the plaintiff, the aforementioned individuals have no record of felony convictions.

REQUEST NO. 2h: Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO 2h: Please refer to response number 2a.

REQUEST NO. 2i: Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

RESPONSE NO. 2i: Please refer to response number 2a.

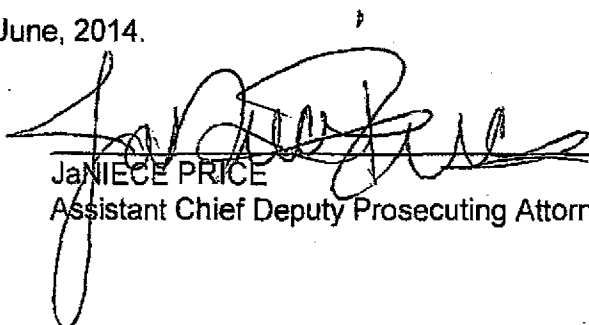
REQUEST NO. 2j: Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: Can be made available upon further request of this office by appointment.

The Defendant requests responses to the foregoing requests and copies of documents by 5:00 p.m. on the Fourteenth day from the date of filing of this document at the Public Defender's in-box, Room 220, Bannock County Courthouse, Pocatello, Idaho. Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

The State reserves the right to supplement this entire Response to Discovery Motion upon receipt of such evidence.

DATED this 20th day of June, 2014.

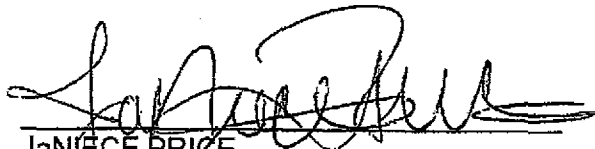

JANIECE PRICE
Assistant Chief Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 20th day of June, 2014, a true and correct copy of the foregoing RESPONSE TO DISCOVERY MOTION was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☐ hand delivery
☐ facsimile
☒ courthouse mailbox



JANIECE PRICE

Blans

RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 JUN 12 PM 4:06
BY _____
DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

v.

JAMES LEON GRIFFIN,

Defendant.

CASE NO. CR-2014-07920-FE

DISCOVERY MOTION

COMES NOW the Defendant, James Leon Griffin, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the

Discovery Motion
Page - 1

following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

- a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

- b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

- c. Please provide a copy of the defendant's prior criminal record.

- d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.

- e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence a trial, or

Discovery Motion

Page - 2

obtained from the Defendant.

f. Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

g. Please furnish to the defendant a written list of the names and addresses, and all telephone or cell phone of whatsoever nature of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

i. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and data for those opinions, and the expert witness's qualifications pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence.

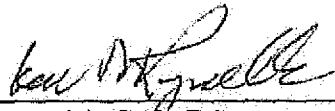
j. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

k. Any and all statements from conversations between the Defendant and any

third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 12 day of June, 2014.

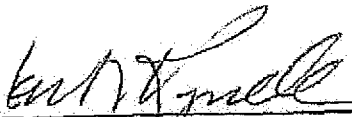

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12 day of June, 2014, I served a true and correct copy of the **DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail Bannock
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

SR
STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

2014-06-24

JaNIECE PRICE, ISB# 7161
Assistant Chief Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2014-7920-FE
Plaintiff,)	
	)	RESPONSE TO DISCOVERY MOTION
vs.)	
)	
JAMES LEON GRIFFIN,)	
)	
Defendant.)	
<hr/>		

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE, Assistant Chief Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to Defendant's Discovery Motion as follows:

REQUEST NO. 1: Defendant requests that the Prosecutor disclosure to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes with the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have

RESPONSE - Page 1

reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

REQUEST NO. 1a: All evidence which tends to negate the guilt of the accused in this offense.

RESPONSE NO. 1a: None known at this time.

REQUEST NO. 1b: All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1b: None known at this time.

REQUEST NO. 2: Defendant provides this written request that the prosecutor disclosure the following information, evidence and material to defense counsel:

REQUEST NO. 2a: Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: Please refer to the enclosed copy of the Pocatello Police Department police report, LI#14-P11107.

REQUEST NO. 2b: Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statements made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There is no co-defendant in this case.

REQUEST NO. 2c.: Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: Please see the enclosed defendant's prior criminal history.

RESPONSE - Page 2

REQUEST NO. 2d: Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.

RESPONSE NO 2d: The following is a list of items that may be used as evidence at the time trial:

- Pocatello Police Department police report, L.I. #14-P11107 (enclosed)
- Criminal history for Defendant (enclosed)
- Idaho State Police Forensic Services laboratory results (will be provided upon receipt)
- .27 grams Methamphetamine (Property number P160333)
- Cylinder w/Meth inside (Property number P160344)

REQUEST NO. 2e: To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence at trial, or obtained from the Defendant.

RESPONSE NO 2e: The defense counsel may schedule an appointment convenient for both parties to inspect any items in the State's possession pertaining to this case.

REQUEST NO. 2f: Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, which are in the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO. 2f: The enclosed Idaho State Police Forensic Services Laboratory Results will be provided upon completion and receipt.

REQUEST NO. 2g: Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following list of individuals may be called to testify at the time of trial:

- Forensic Scientist who tests the drugs – Idaho State Police Forensic Services
- Joshua Hancock – Pocatello Police Department
- Adrian Wadsworth – Pocatello Police Department
- Sean Peterson – Pocatello Police Evidence
- Theo Vanderschaaf – Pocatello Police Department
- Reid Morrell – Pocatello Police Department

At the present time, to the best knowledge of the plaintiff, the aforementioned individuals have no record of felony convictions.

REQUEST NO. 2h: Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO 2h: Please refer to response number 2a.

REQUEST NO. 2i: Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

RESPONSE NO. 2i: Please refer to response number 2a.

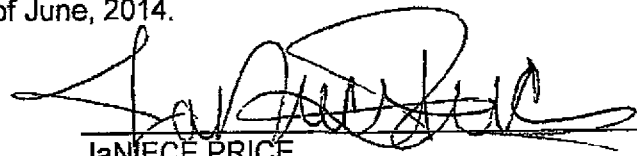
REQUEST NO. 2j: Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: Can be made available upon further request of this office by appointment.

The Defendant requests responses to the foregoing requests and copies of documents by 5:00 p.m. on the Fourteenth day from the date of filing of this document at the Public Defender's in-box, Room 220, Bannock County Courthouse, Pocatello, Idaho. Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

The State reserves the right to supplement this entire Response to Discovery Motion upon receipt of such evidence.

DATED this 20th day of June, 2014.




JANIECE PRICE
Assistant Chief Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 20th day of June, 2014, a true and correct copy of the foregoing RESPONSE TO DISCOVERY MOTION was delivered to the following:

KENT V. REYNOLDS
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☐ hand delivery
☐ facsimile
☒ courthouse mailbox


JANIECE PRICE

mine
RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

vs.

AARON JAMES GILLIAND,

Defendant.

CASE NO. CR-2014-09553-FE

FIRST DISCOVERY MOTION

**TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock County Courthouse,
Pocatello, Idaho 83205**

Comes now the Defendant, Aaron James Gilliland, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the

**First Discovery Motion
Page - 1**

investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
 - b. All evidence which would tend to reduce the punishment in this case.
2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:
- a. Any and all relevant statements of the defendant, written or recorded, and the substance of any statement, written or oral, made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent, or to any witness the state intends to call in this case.
 - b. Any and all statements, either written or recorded or both, of a co-defendant or co-conspirator in this case, made either before or after arrest in response to any questioning, detention and/or interrogation or contact by any peace officer or law enforcement agency, probation/parole officer, prosecuting attorney, or the prosecuting attorney's agent or otherwise.
 - c. Please provide a copy of the defendant's prior criminal record.
 - d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.
 - e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are

in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence a trial, or obtained from the Defendant.

f. Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney or any law enforcement agency, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

g. Please furnish to the defendant a written list of the names, addresses, telephone/cell phone number and the identity of the telephone/cell phone service provider or carrier, i.e. Alltel, Verizon, etc., and the contact information of the telephone/cell phone service provider or carrier for all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

h. Please furnish any and all statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

I. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and data for those opinions, and the expert witness's qualifications pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence.

j. Please furnish to the defendant any reports, field notes and/or memoranda in possession of the prosecuting attorney or any law enforcement agency or person which were made by a police officer or investigator or probation/parole officer in connection with the investigation or prosecution of the case.

k. Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.


l. Any and all evidence intended to be introduced at the preliminary hearing and or trial in this matter.

m. Copies of and any results from any type of photographic lineup associated with this case.

n. Copies of any and all search warrants, affidavits in support of search warrants, and return on search warrants including audio or video recordings regarding the execution of the warrant associated with this case.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 14 day of July, 2014.



KENT V. REYNOLDS
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14 day of July, 2014, I served a true and correct copy of the **FIRST DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail Bannock County
☐ Facsimile



KENT V. REYNOLDS
Deputy Public Defender

LR

1CD / 1DVD

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

2014-07-21

JaNIECE PRICE, ISB# 7161
Assistant Chief Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2014-9553-FE
Plaintiff,)	
	)	RESPONSE TO DISCOVERY MOTION
vs.)	
)	
AARON JAMES GILLIAND,)	
)	
Defendant.)	

TO: KENT V. REYNOLDS, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

COMES NOW, the State of Idaho, by and through JaNIECE PRICE, Assistant Chief Deputy Prosecuting Attorney in and for the County of Bannock, Idaho, and responds to Defendant's Discovery Motion as follows:

REQUEST NO. 1: Defendant requests that the Prosecutor disclosure to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes with the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have

reported, to the office of the prosecutor. The items specified for automatic disclosure include the following:

REQUEST NO. 1a: All evidence which tends to negate the guilt of the accused in this offense.

RESPONSE NO. 1a: None known at this time.

REQUEST NO. 1b: All evidence which would tend to reduce the punishment in this case.

RESPONSE NO. 1b: None known at this time.

REQUEST NO. 2: Defendant provides this written request that the prosecutor disclosure the following information, evidence and material to defense counsel:

REQUEST NO. 2a: Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2a: Please refer to the enclosed copy of the Pocatello Police Department police report, LI#14-P13576 and the ICOP DVD.

REQUEST NO. 2b: Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statements made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.

RESPONSE NO. 2b: There is no co-defendant in this case.

REQUEST NO. 2c.: Please provide a copy of the defendant's prior criminal record.

RESPONSE NO. 2c: Please see the enclosed defendant's prior criminal history.

REQUEST NO. 2d: Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.

RESPONSE NO 2d: The following is a list of items that may be used as evidence at the time trial:

- Pocatello Police Department police report, L.I. #14-P13576 (enclosed)
- ICOP DVD (enclosed)
- Photographs (enclosed)
- Criminal history for Defendant (enclosed)
- Idaho State Police Forensic Services laboratory results (will be provided upon completion and receipt)
- .26 grams Methamphetamine (Property number P161294)

REQUEST NO. 2e: To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence at trial, or obtained from the Defendant.

RESPONSE NO 2e: The defense counsel may schedule an appointment convenient for both parties to inspect any items in the State's possession pertaining to this case.

REQUEST NO. 2f: Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, which

the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

RESPONSE NO. 2f: The Idaho State Police Forensic Services Laboratory Results will be provided upon completion and receipt.

REQUEST NO. 2g: Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

RESPONSE NO 2g: The following list of individuals may be called to testify at the time of trial:

- Forensic Scientist – Idaho State Police Forensic Services
- Eric Miller – Pocatello Police Department
- Jacob Pokorny – Pocatello Police Department

At the present time, to the best knowledge of the plaintiff, the aforementioned individuals have no record of felony convictions.

REQUEST NO. 2h: Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

RESPONSE NO 2h: Please refer to response number 2a.

REQUEST NO. 2i: Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

RESPONSE NO. 2i: Please refer to response number 2a.

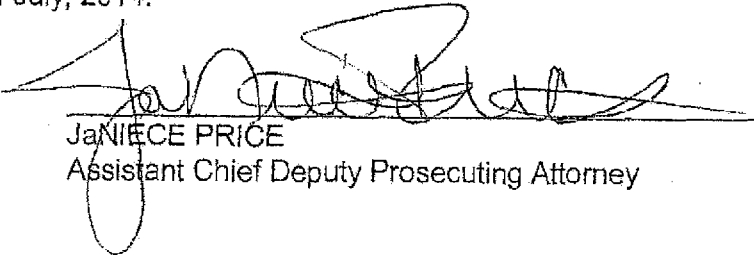
REQUEST NO. 2j: Any and all statements from conversations between the Defendant and any third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

RESPONSE NO 2j: Can be made available upon further request of this office by appointment.

The Defendant requests responses to the foregoing requests and copies of documents by 5:00 p.m. on the Fourteenth day from the date of filing of this document at the Public Defender's in-box, Room 220, Bannock County Courthouse, Pocatello, Idaho. Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

The State reserves the right to supplement this entire Response to Discovery Motion upon receipt of such evidence.

DATED this 18th day of July, 2014.


JANIECE PRICE
Assistant Chief Deputy Prosecuting Attorney

Randall D. Schulthies
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 AUG 13 PM 4:12
BY KJ
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

v.

AMAN GAS,

Defendant,

) CASE NO. CR-2013-864-FE-A
)
) THIRD AFFIDAVIT OF
) KENT V. REYNOLDS IN SUPPORT
) OF MOTION TO SET ASIDE
) VERDICT AND MOTION FOR
) NEW TRIAL; AMENDED MOTION
) TO SET ASIDE VERDICT;
) AMENDED MOTION FOR NEW
) TRIAL; MOTION TO
) DISQUALIFY AND AMENDED
) MOTION TO DISQUALIFY
) KENT V. REYNOLDS
)

STATE OF IDAHO }

:ss

COUNTY OF BANNOCK }

KENT V. REYNOLDS, having been sworn upon his oath, deposes and says that:

1. That I am an attorney of record for the Defendant Aman Gas, and make this affidavit of my personal knowledge and belief.


Third Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict and Motion for New Trial;
Amended Motion to Set Aside Verdict and Amended Motion for new Trial' Motion to Disqualify and
Amended Motion to Disqualify

Page 1

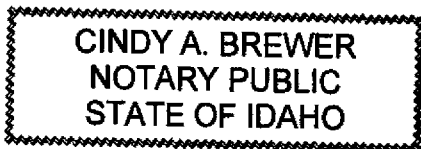
2. Attached hereto and incorporated herein by reference are the following materials:


Audio Recording of the Trial held May 19, 2014 through May 23, 2014.

DATED this 13 day of August, 2014.


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

SUBSCRIBED AND SWORN before me this 13 day of August, 2014.



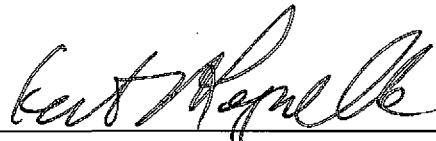

NOTARY PUBLIC FOR IDAHO
Residing at Pocatello
My Commission Expires: 5/10/2016

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3 day of August, 2014, I served a true and correct copy of the **THIRD AFFIDAVIT OF KENT V. REYNOLDS IN SUPPORT OF MOTION TO SET ASIDE VERDICT AND MOTION FOR NEW TRIAL; AMENDED MOTION TO SET ASIDE VERDICT; AMENDED MOTION FOR NEW TRIAL; MOTION TO DISQUALIFY AND AMENDED MOTION TO DISQUALIFY SECOND AFFIDAVIT OF KENT V. REYNOLDS** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Deputy Public Defender

Randall D. Schulthies
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 AUG 13 PM 4:13

BY KJR
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

v.

AMAN GAS,

Defendant,

)
) **CASE NO. CR-2013-864-FE-A**
)
) **AFFIDAVIT OF**
) **LINDSEY BLAKE**
)
)
)
)
)
)
)

STATE OF IDAHO }

:ss

COUNTY OF BANNOCK }

LINDSEY BLAKE, having been sworn upon her oath, deposes and says that:

1. That I am an attorney with the Office of Public defender's for Bannock C.
2. I was the attorney of record for the Defendant Todd Edmo, Bannock County Case
No. CR-2013-3258-FE-B.

Affidavit of Kent V. Reynolds
Page 1

3. Attached hereto and incorporated herein by reference are the followings exhibits:
- A. State's Request for Discovery dated April 23, 2013. Paragraph 4 asks for the identification of all lay witnesses whom Defendant intends to call. Paragraph 5 asks for the identification of expert witnesses.
 - B. Defendant's Response to Plaintiff's Request for Discovery dated May 9, 2013. In response to the State's Paragraph 4, the Defendant identified three witnesses. Defendant indicated in response to Paragraph 5 as follows, "None at this time."
 - C. Defendant's Proposed Witness List and Exhibit List. Dr. Daniel Traughber is listed. There is no expert witness disclosure.
 - D. After the trial was continued, I spoke with Ms. Price about my intention to have Dr. Traughber review Mr. Edmo's medical records and possibly serve as an expert witness with regard to Mr. Edmo's mental state, particularly his TBI.
 - E. State's Supplemental Request for Discovery, Expert Witnesses, dated November 18, 2013. No response was filed by Defendant in response to this request.
 - F. I subsequently spoke with Ms. Price about my intention to call Dr. Traughber as an expert witness and let her know I was waiting on Dr. Traughber's report and evaluation of Mr. Edmo. Further, I advised Ms. Price and the Court that Dr. Traughber was having medical issues which caused a delay in my formal response to the state providing Dr.

Traugher's curriculum vitae and report of his findings regarding Mr. Edmo.

- G. Defendant's Second Response to Plaintiff's Request for Discovery, dated March 17, 2014. The response identified Dr. Traugher in paragraph 5, which is the paragraph by which the State requested disclosure of expert witnesses.
- H. The Court granted several continuances at the informal pretrial conferences which the state acquiesced in order to allow the defense time to get the proper reports and information from Dr. Traugher because the defense was intending to call him as an expert witness at Mr. Edmo's trial.

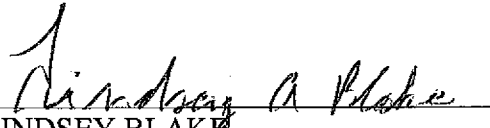
4. On November 18, 2013, the State filed a Motion in Limine to exclude Dr. Traugher from testifying at trial. Exhibit "F".

5. On May 5, 2014, the motion was argued by the parties. The Court granted the State's Motion in Limine. A copy of the Order Granting Motion in Limine is attached hereto and incorporated herein by reference as Exhibit "G". Pursuant to Judge Nye's order, the exclusion of Dr. Traugher was based upon Rule 16(c)(4) I.C.R. and Idaho Code §18-207. The court in granting the motion pursuant to Rule 16, I.C.R. stated,

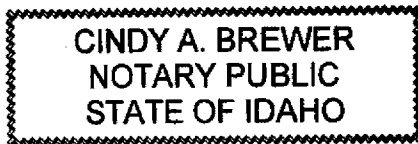
On May 9, 2013, Defendant provide a response to the State's written request. That response did not include or mention Dr. Traugher in any way. On August 2, 2013, Defendant provided his proposed Witness List. It does name Daniel Traugher, PhD, as a witness but provides no further information. In fact, it does not even identify Dr. Traugher as an expert witness rather than a fact witness. *At* Pg. 2.


The attorneys who appeared on behalf of the State and who argued the Motion in Limine were JaNiece Price and Jeff Cronin. They are the same attorneys who tried the Aman Gas case. This decision was filed fourteen days prior to the Aman Gas trial.

DATED this 13th day of August, 2014.


LINDSEY BLAKE
Attorney at Law

SUBSCRIBED AND SWORN before me this 13th day of August, 2014.



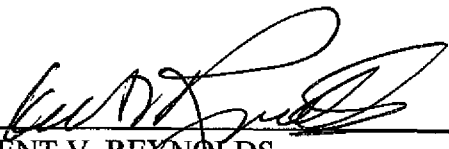

NOTARY PUBLIC FOR IDAHO
Residing at Pocatello
My Commission Expires: 5/10/2016

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13 day of August, 2014, I served a true and correct copy of the **AFFIDAVIT OF LINDSEY BLAKE** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input checked="" type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Deputy Public Defender

2013 -04- 24

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JANIECE PRICE ISB #7161
Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

TODD THOMAS EDMO,

Defendant.

CASE NO. CR-2013-3258-FE

REQUEST FOR DISCOVERY

TO: LINDSEY A. BLAKE, Public Defenders Office, Pocatello, Idaho, Attorney for the
Defendant.

PLEASE TAKE NOTICE that the undersigned, pursuant to Rule 16 of the
Idaho Criminal Rules requests discovery and inspection of the following information,
evidence, and materials:

1. Any books, papers, documents, photographs, tangible objects or copies
or portions thereof, which are within the possession, custody or control of the Defendant,
and which the Defendant intends to introduce at trial in the above-mentioned case.

2. Copies of any and all results or reports of physical or mental
examinations and of any scientific tests or experiments made in connection with the

REQUEST - Page 1

above-mentioned case, or copies thereof, within the possession or control of the Defendant which the Defendant intends to introduce at trial, or which were prepared by a witness whom the defendant intends to call at trial when the results or reports relate to testimony of the witness.

3. Describe any and all documents and tangible evidence, not previously disclosed, which Defendant intends to introduce or may introduce at trial.

4. The names and addresses of lay witnesses the Defendant intends to call at trial, and the substance of the testimony of such witnesses.

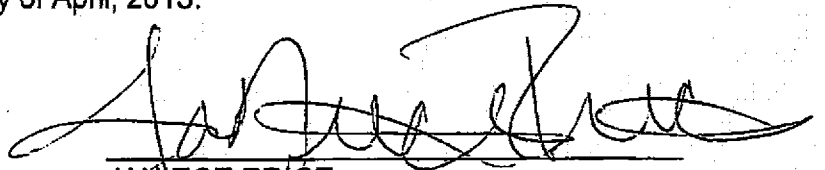
5. The names and addresses of expert witnesses the Defendant intends to call at trial, and the substance of the testimony of such witnesses.

6. Under Idaho Code §19-519, if you intend to offer evidence of an alibi in your defense, you are hereby required to serve upon me, the undersigned Prosecuting Attorney for Bannock County, Idaho, within ten (10) days, a notice in writing of your intention to claim such alibi which said notice shall contain specific information as the place(s) and time(s) at said place(s) at which you claim to have been on the day of the alleged offense, and as particularly as is known to you or your attorney, the names and addresses of the individual(s) and/or testimonial witnesses by whom you propose to establish such alibi.

7. This is a continuing Request for Discovery and the Attorney for the Defense shall timely file such supplemental responses with the Court and shall serve the same upon the State as may be required from time to time to correctly set forth all further and different information obtained by the Attorney for the Defense.

The undersigned further requests that said information, evidence and materials be presented to the Office of the Prosecuting Attorney, Bannock County Courthouse, Pocatello, Idaho, on or before the fourteenth day from which it has been signed, or at such other date and time mutually agreed to by counsel.

DATED this 23rd day of April, 2013.



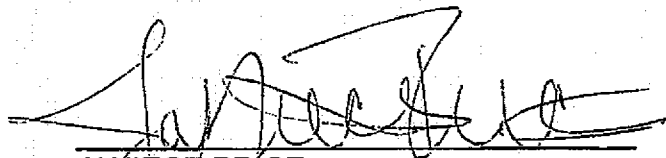
JANIECE PRICE
Deputy Prosecuting Attorney
Bannock County, Idaho

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 23rd day of April, 2013, a true and correct copy of the foregoing REQUEST FOR DISCOVERY was delivered to the following:

LINDSEY A. BLAKE
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☐ hand delivery
☐ facsimile
☒ courthouse mailbox



JANIECE PRICE

RANDALL D. SCHULTHIES
Chief Public Defender
P.O. Box 4147
Pocatello, ID 83205-4147
(208) 236-7040
FAX (208) 236-7048

LINDSEY A. BLAKE
Deputy Public Defender
ISB 7920

FILED
BANNOCK COUNTY, ID
13121-9 FILE: 21
BY _____
DEPUTY

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO

Plaintiff,

v.

TODD EDMO,

Defendant.

CASE NO. CR-2013-3258-FE ← B

**DEFENDANT'S RESPONSE
TO PLAINTIFF'S REQUEST
FOR DISCOVERY**

TO: JaNiece Price, Deputy Bannock County Prosecutor, Bannock
County Courthouse, Pocatello, Idaho, 83205

COMES NOW Todd Edmo, through his attorney, Lindsey A. Blake, Deputy Public
Defender, and responds to the State's request for discovery as follows:

1. The Defendant does not have any materials in his possession responsive to this request. The Defendant reserves the right to supplement this response prior to trial.
2. See Number 1.
3. See Number 1.

**DEFENDANT'S RESPONSE TO PLAINTIFF'S
REQUEST FOR DISCOVERY PAGE 1**

4. Amber Reynoso - 541 Canal Street, Chubbuck, Idaho

Delena Soltero - 1730 West Quinn Road; Trl 437, Pocatello, Idaho

Angelina Duran - Address unknown at this time

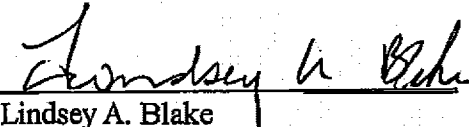
The state has listed Ms. Reynoso and Ms. Soltero as witnesses so the information regarding the content of their testimony should already be in the state's possession or readily available. Notwithstanding, all witnesses are expected to testify about their observations of the incident and circumstances surrounding Mr. Emdo's alleged offenses.

5. None at this time.

6. Defendant is not asserting an alibi defense at this time. Investigation is ongoing and if facts develop to support an alibi defense, Defendant will timely supplement this response.

Defendant reserves the right to supplement it's response to the request for discovery prior to trial.

DATED this 9th day of May, 2013.

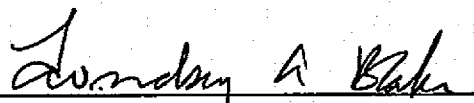

Lindsey A. Blake
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9th day of May, 2013, I served a true and correct copy of the **DEFENDANT'S RESPONSE TO PLAINTIFF'S REQUEST FOR DISCOVERY** was served upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 215
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile


Lindsey A. Blake
Deputy Public Defender

RANDALL D. SCHULTHIES
Chief Public Defender
P. O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2013 AUG -2 PM 4:51

BY
DEPUTY CLERK

COPY

LINDSEY A. BLAKE
Deputy Public Defender
ISB 7920

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,)

Plaintiff,)

vs.)

TODD THOMAS EDMO,)

Defendant.)
_____)

Case No. CR-2013-3258-FE

**DEFENDANT'S PROPOSED
WITNESS AND EXHIBIT LIST**

COMES NOW, Todd Edmo, the Defendant in the above entitled matter, acting by and through his attorney of record, Lindsey A. Blake, Deputy Public Defender of the Bannock County Public Defender's Office, and hereby submits the following proposed witness and exhibit list:

Witnesses:

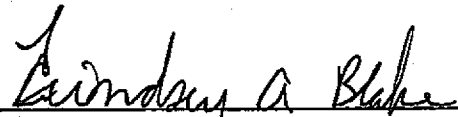
- 1) Amber Reynoso, 541 Canal Street, Chubbuck, Idaho
- 2) Delena Soltero
- 3) Angelina Duran
- 4) Daniel L. Traughber, PHD. This information will be supplemented as it becomes available.

C

Exhibits:

- 1) Trooper Noyes' Audio/Video Recording
- 2) Todd Edmo's Medical Records

DATED this 2nd day of August, 2013.

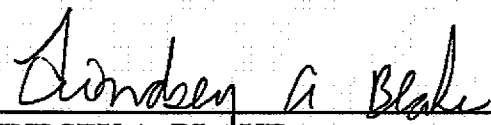

LINDSEY A. BLAKE
DEPUTY PUBLIC DEFENDER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of August, 2013, a true and correct copy of the foregoing **DEFENDANT'S PROPOSED WITNESS AND EXHIBIT LIST** was served upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile


LINDSEY A. BLAKE
Deputy Public Defender

PORTNEUF MEDICAL CENTER
651 Memorial Drive
Pocatello, Idaho 83201
(208) 239-1000

10878

DISCHARGE SUMMARY

PT NAME: EDMO, TODD THOMAS
PT DOB: [REDACTED] PT AGE: 19Y
ADMIT: 05/30/2003
DISCH: 06/02/2003
ATTN PHYS: KEVIN S. HILL, M.D.

ROOM: RB-0004-1
MR: 11694
ACCT: 3218877
DD: 06/02/2003
DT: 06/02/2003

DISCHARGE DIAGNOSIS:

1. Basilar skull fracture through anterior mastoid air cells, temporal bones through the external auditory canal.
2. Subdural hematoma on the right in the temporal lobe region with contusions right temporal lobe, left frontal lobe.
3. Epidural hematoma, right parietal lesion.
4. Dependent in gait, transfers, activities of daily living.
5. Traumatic brain injury with impulsivity, higher level deficits in judgment, executive function, and memory encoding.
6. Dizziness and vertigo with standing with higher level balance deficits.
7. Right facial palsy secondary to traumatic brain injury.

HOSPITAL COURSE:

Mr. Todd Edmo is a 19-year-old male who was injured May 28, 2003 when he fell off a porch 4 feet striking his head. He was brought to the emergency room bleeding from his right ear. A computed tomography scan showed subdural hematoma, temporal lobe contusion in the right temporal lobe, left frontal lobe, and epidural hematoma. In the right parietal region he was noted to have a basilar skull fracture. He was admitted to the intensive care unit by Dr. Allen. An ears, nose, and throat consultation was obtained with impression of transverse temporal bone fracture sparing the cochlea and eighth nerve. Plans were made for a possible tympanoplasty with ossicular chain reconstruction in the future if necessary. He was treated with wicking and antibiotic eyedrops. He complained of vertigo with standing. He was stabilized and then transferred to the rehabilitation unit from the intensive care unit. He did well over the ensuing four days and was able to be discharged home on June 2, 2003 with plans for follow up with Dr. McGee for possible further surgical resection. He will need to obtain neuropsych testing prior to return to work. He was noted to have cognitive deficits. He was noted to suffer a right facial palsy secondary to traumatic brain injury. He is follow up with my office in one month. He is to be monitored 24 hours per day for safety issues. He was continued on his medications including natural tears to the right eye due to facial paralysis causing dryness in the right eye, Motrin, Fioricet for

CONTINUED

DISCHARGE SUMMARY

NAME: EDMO, TODD THOMAS
ADMIT: 05/30/2003

MR: 11694
DD: 06/02/2003
DT: 06/02/2003

CONTINUED

PAGE 2

headaches, Dilantin 200 mg q. 12 times two more days then discontinue, ciprofloxacin ear drops to be used until followed up by Dr. McGee. Neuropsych testing on an outpatient basis. Outpatient speech therapy one time weekly.

CONDITION ON DISCHARGE:

The patient was discharged in stable medical condition.

RESULTS OF TREATMENT:

On admission bathing, upper extremity dressing, lower extremity dressing were supervision. At the time of discharge modified independent. For transfers he was a minimal assist on admission, modified independent at discharge. For upper level ambulation and balance activities he was a minimal assist on admission and modified independent at discharge. For stairs he was a minimal assist on admission and modified independent at discharge. He was discharged in stable medical condition.

KEVIN S. HILL, M.D.

\: ks /: 155 ID: 000902187
JOB: 203278 TIME: 1913

cc: KEVIN S. HILL, M.D. (00155)

924 of 1217

80 URGENT CARE (80)

JUN 23 2003 @ 08:02

Provider: GAH-NEE NOT-TSOO

Nail Care	11720	Aca Bandage	A4460	Cefazolin	J0690	HEP A ADULT, IM	90632
ECG	93000	Alcohol Swabs	A4245	Toradol	J1885	HEP B ADULT, IM	90746
Cerumen removal	92910	Cane	E0100	Promethazine	J2650	IMM. ADMIN	9047
I&D	20000	Critches	E0112	Rosephin	J0895	FLU VACCINE, IM	90655
Start IV	90784	Gauze 2X2, 3X3, 4X4	A62	Vistari	J3410	MMR, SQ	90707
Nebulizer Treatment	94640	Glucometer	E0607	Insulin	J1820	PNEUMOVAX, IM	90732
Dressing Changes	93.57	Infusion Supplies	A4212	Vitamin B12	J3420	PPD	96590
Oxygen (minutes)	93.96	Lancet Device	A4258	Epogen	Q0136	Td ADULT, IM	90718
Spot Pulse Oximetry	94760	Laricots	A4259	Methotrexate	J9250		
Venipuncture/Blood draw	G0001	Nebulizer Supplies	A7003	Biotin LA			
		Oxygen Delivery Device	A4615				
		Test Strips	A4253			Throat Culture	97070
		Urna Boal	29580			Urna C&S	97088
		FOBT KIT				PSA	94153
						BMP	90048
				Finger Stick Glucose	82948	LFT	90048
				Urna Dip w/o Micro	81000	H&A1c	93036
				Urna Dipstick w/ Micro	81001	TSH	94443
				CMP	80053	Lipids	90061
				HCG	81025	Rapid Sleep	97081
				CBC	85027		

705.1	ACNE VULGARIS.
708.1	ACNE - STAGE III
V15.82	NON-SMOKER, NON-SMOKIN
V16.82	NON-SMOKING HOUSEHOLD
	POVS
V72.2	DENTAL ORAL HEALTH VIS
760.50	SLEEP DISTURBANCE SECO
V68.89	PHONE RE ACNE MEDS
959.09	NASAL TRAUMA
V08.8	TD
939.4	R HAND DEFORMITY
381.4	SEROUS OTITIS
V15.81	HX OF PAST NONCOMPLIAN
V61.10	COUNSEL MARITAL/PART P
V62.82	BEREAVEMENT, UNCOMPLIC
216.4	NEVUS POST OCCIPITAL
815.01	CLOSED FRACTURE OF BAS
525.9	UNSPECIFIED DISORDER O
719.44	PAIN IN JOINT INVOLVIN

789.0	ABDOMINAL PAIN
305.00	ALCOHOL ABUSE
626.0	AMENORRHEA
300.00	ANXIETY
493.90	ASTHMA
724.	BACKACHE
	BRONCHITIS ACUTE/CHRONIC
786.50	CHEST PAIN
372.30	CONJUNCTIVITIS
496	COPD
311	DEPRESSION
787.91	DIARRHEA
760.4	DIZZINESS
530.81	ESOPHAGEAL REFLUX
	FRACTURE
558.9	GASTROENTERITIS
	HEADACHE
401.1	HYPERTENSION
684	IMPETIGO

MEDICAL HISTORY		
719.4	JOINT PAIN	
388.30	LABRYNTHITIS	
715.3	OSTEOARTHRITIS	
390.10	OTITIS EXTERNA	
382.9	OTITIS MEDIA	
482.	PHARYNGITIS	
486.	PNEUMONIA	
472.0	RHINITIS	
	SINUSITIS ACUTE/CHRONIC	
	SPRAIN	
	STRAIN	
034.0	STREP THROAT	
465.9	URI	
599.0	UTI	
616.10	VAGINITIS	
	WOUND	
	Heart injury	

[illegible]

Referrals for Drs Hill, Conquest, Allen
appts already made.
S. Heide & Dr Kern for
morning test.

Notes for emblem:

Remove Note:

Notes for problem:

Remove Note:

Notes for problems:

Remove Note:

RTC:

APPT LENGTH:

Patient Information		Physician Notes		Developmental Screening Results		
Infant (< 1 yr.)	99391	99391		Indicate level w/ an "X" and CIRCLE whether NEW or ESTABLISHED patient.		
Early childhood (1-4 yrs.)	99392	99392		CC Hist 3, ROS 0, 1 organ sys/ body area	99202	99212
Late childhood (5-11 yrs.)	99393	99393		CC Hist 3, ROS 1, 2-7 os./b.a.	99203	99213
Adolescent (12-17 yrs.)	99394	99394		CC Hist 4, ROS 2-9, 2-7 os./b.a.	99204	99214
18-39 yrs	99395	99395		CC Hist 4, ROS 10-14, 8-12 os./b.a.	99205	99215
40-64 yrs	99396	99396		Nurse Visit:		99211
65 yrs & >	99397	99397		Counseling: 15 min. / 30 min. / 45 min.		9940

TODD T EDMO
 DOB: AUG 10, 1983
 P5 HEALTH SERVICES, INC. (518829527), EXPRESS
 SCRIPTS (518829527)

19 y/o male
SSN: 619 06 7554
#10878

Signature

JUN 23, 2003 @ 08:02
VCN: 7621.1B

IHS-003 (9/96)

P.L. 96-511 NA

PCC AMBULATORY ENCOUNTER RECORD

Date _____

Actual Time _____ AM/PM

Office _____

Appt. _____

PROBLEM LIST UPDATE (Enter Problem Number From Health Summary)			PROVIDERS	APRIL	MAY	DETAILS / CODE
Remove	Move to inactive	Move to Active				

CHIEF COMPLAINT

SUBJECTIVE

Medication for Post-TBI.

③ Chart review by Dr. Palmer
p Neuro psychological eval by
Dr. Mark Carpenter

④ Plan Meds per Dr. Palmer's
recommendation

Injury?

☐ Yes ☐ No

If yes, Date:

☐ BTOH Related☐ Employ. Rel.

Cause:

Place:

OTHER TESTS/PROCEDURES PERFORMED

PROBLEM LIST

PURPOSE OF VISIT (PRINT ONLY IN THIS SECTION; DO NOT ABBREVIATE)

Health Factors

5/1 Traumatic brain injury sequelae

REPRODUCTIVE FACTORS

G P LB SA TA LMP

METHOD

DATE BEGUN

PROBLEM LIST NOTES

No capsules

STORE NOTE FOR PROBLEM

only come in 25mg & 40mg

MEDICATIONS

MEDICATIONS / TREATMENTS / PROCEDURES / PATIENT EDUCATION

Stresser 25mg

Stresser 40mg

Stresser 40mg

meds per Dr. Palmer

next

010873

519-06-7552

EDMO. T000 T

08-10-03

FTHALL # CT

209 003

012-03-16

FTHALL # CT

07 23 03

REFERRAL TO:

CefFS by Appt

PREPARED

DATE

INSTRUCTIONS TO PATIENT

☐ SIGN RELEASE

TIME

DATE

TIME

DATE

TIME

DATE

TIME

DATE

TIME

PROV. SIGNATURE

TYPE OF DECISION MAKING

Straightforward

Low Complexity

Moderate Complexity

High Complexity

JUL 16 2013 10:11AM

FTHALL IHS HIM

13:25 09/25/2003

NO. 036

P. 27

C O F Y

PORTNEUF MEDICAL CENTER
651 MEMORIAL DRIVE
POCATELLO, IDAHO 83201

EMERGENCY DEPARTMENT REPORT

10978

PT NAME: EDMO, TODD THOMAS
PT DOB: 08/10/1983 PT AGE: 19Y
DATE OF VISIT: 07/30/2003
ATTN PHYS: CRAIG L. BOSLEY, M.D.

ROOM: ER
MR: 11694
ACCT: 3242396
PT TYPE: 0
DD: 08/01/2003
TD: 1946
DT: 08/02/2003

CHIEF COMPLAINT:

Dried blood in the right ear canal.

HISTORY OF PRESENT ILLNESS:

The patient is a 19-year-old male who reports he was in an altercation two days ago and got punched in the right ear. Today the patient was cleaning his ear and got some dried blood out of it. The patient does have a history of a previous head injury and is deaf in that right ear. He does not complain of any pain in the inner ear, only on the outer ear itself. Denies fevers, chills, nausea, or vomiting. No headache or visual disturbances.

PAST MEDICAL HISTORY:

Head injury apparently in May with an epidural.

MEDICATIONS:

Zoloft, Serotonin.

ALLERGIES:

None.

I. Emergent/Acutely Urgent Care Services
II. Preventative Care Services
III. Non-Urgent but Needed Care Services
Police Custody/MVA

SOCIAL HISTORY:

Denies tobacco and alcohol.

REVIEW OF SYSTEMS:

As above, all others are negative.

PHYSICAL EXAMINATION:

VITAL SIGNS: Blood pressure 114/58, heart rate 89, respirations 20, temperature 98.6, SPO2 is 96%. GENERAL: The patient is well-developed, well-nourished in no acute distress. HEENT: Head is normocephalic. There is small amount of ecchymosis on the auricle of the right ear. There is no mastoid tenderness. Pupils equal, round and reactive to light. Conjunctivae is clear. Extraocular muscles are intact. TMs, left is clear. The right does have dried blood in the canal. The TM is not able to be seen. Pharynx is moist without erythema. He has no malocclusion. No tenderness on the mandible. NECK: Supple and nontender. No lymphadenopathy or masses or lesions. NEUROLOGIC: Cranial nerves II through XII are intact except for decreased hearing in the right ear. DTR's are 2+.

Discussion was made with the patient and his mother. I felt that this was probably a ruptured TM.

JUL 16 2013 10:12AM

FTHALL IHS HIM

NO. 036 P. 28

EMERGENCY DEPARTMENT REPORT

NAME: EDMO, TODD THOMAS
DATE OF VISIT: 07/30/2003

MR: 11694
DD: 08/01/2003
DT: 08/02/2003

CONTINUED

PAGE 2

DIAGNOSIS:
Ruptured TM.

PLAN:

He was instructed to keep the canal dry and not to have any swimming or water into that area. He can follow up with ENT within the week. Tylenol or Motrin for pain.

This dictation has been signed without proofreading.

CURTIS C. SANDY, M.D.

\: ca /: . 849 ID: 000922696
JOB: 217357 TIME: 0456

JUL 16. 2013 10:12AM

FTHALL IHS HIM

NO. 036 P. 30

IHS-603 (3/06)

PL 86-611 NA

PCC AMBULATORY ENCOUNTER RECORD

Date: 7.25 AM
 Arrival Time: 12:25
 Clinic: D/W
 Appr: _____

PROBLEM LIST UPDATE
 (Enter Problem Number From Health Summary)

Remove	Move to Inactive	Move to Active
--------	------------------	----------------

PROVIDERS

1	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20
1	09	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28

PRIMARY PROVIDER

1740 NCDA (TSM) 97.7 67 14
 BASKETBALL hit head 100cc BKout, cold,
 clear head, clear ears, cleared 2 yrs. since Sat. since
 onsets (chills 14-16-17-18-19-20-21-22-23-24-25-26-27-28-29-30-31-32-33-34-35-36-37-38-39-40-41-42-43-44-45-46-47-48-49-50-51-52-53-54-55-56-57-58-59-60-61-62-63-64-65-66-67-68-69-70-71-72-73-74-75-76-77-78-79-80-81-82-83-84-85-86-87-88-89-90-91-92-93-94-95-96-97-98-99-100-101-102-103-104-105-106-107-108-109-110-111-112-113-114-115-116-117-118-119-120-121-122-123-124-125-126-127-128-129-130-131-132-133-134-135-136-137-138-139-140-141-142-143-144-145-146-147-148-149-150-151-152-153-154-155-156-157-158-159-160-161-162-163-164-165-166-167-168-169-170-171-172-173-174-175-176-177-178-179-180-181-182-183-184-185-186-187-188-189-190-191-192-193-194-195-196-197-198-199-200-201-202-203-204-205-206-207-208-209-210-211-212-213-214-215-216-217-218-219-220-221-222-223-224-225-226-227-228-229-230-231-232-233-234-235-236-237-238-239-240-241-242-243-244-245-246-247-248-249-250-251-252-253-254-255-256-257-258-259-260-261-262-263-264-265-266-267-268-269-270-271-272-273-274-275-276-277-278-279-280-281-282-283-284-285-286-287-288-289-290-291-292-293-294-295-296-297-298-299-300-301-302-303-304-305-306-307-308-309-310-311-312-313-314-315-316-317-318-319-320-321-322-323-324-325-326-327-328-329-330-331-332-333-334-335-336-337-338-339-340-341-342-343-344-345-346-347-348-349-350-351-352-353-354-355-356-357-358-359-360-361-362-363-364-365-366-367-368-369-370-371-372-373-374-375-376-377-378-379-380-381-382-383-384-385-386-387-388-389-390-391-392-393-394-395-396-397-398-399-400-401-402-403-404-405-406-407-408-409-410-411-412-413-414-415-416-417-418-419-420-421-422-423-424-425-426-427-428-429-430-431-432-433-434-435-436-437-438-439-440-441-442-443-444-445-446-447-448-449-450-451-452-453-454-455-456-457-458-459-460-461-462-463-464-465-466-467-468-469-470-471-472-473-474-475-476-477-478-479-480-481-482-483-484-485-486-487-488-489-490-491-492-493-494-495-496-497-498-499-500-501-502-503-504-505-506-507-508-509-510-511-512-513-514-515-516-517-518-519-520-521-522-523-524-525-526-527-528-529-530-531-532-533-534-535-536-537-538-539-540-541-542-543-544-545-546-547-548-549-550-551-552-553-554-555-556-557-558-559-560-561-562-563-564-565-566-567-568-569-570-571-572-573-574-575-576-577-578-579-580-581-582-583-584-585-586-587-588-589-590-591-592-593-594-595-596-597-598-599-600-601-602-603-604-605-606-607-608-609-610-611-612-613-614-615-616-617-618-619-620-621-622-623-624-625-626-627-628-629-630-631-632-633-634-635-636-637-638-639-640-641-642-643-644-645-646-647-648-649-650-651-652-653-654-655-656-657-658-659-660-661-662-663-664-665-666-667-668-669-670-671-672-673-674-675-676-677-678-679-680-681-682-683-684-685-686-687-688-689-690-691-692-693-694-695-696-697-698-699-700-701-702-703-704-705-706-707-708-709-710-711-712-713-714-715-716-717-718-719-720-721-722-723-724-725-726-727-728-729-730-731-732-733-734-735-736-737-738-739-740-741-742-743-744-745-746-747-748-749-750-751-752-753-754-755-756-757-758-759-760-761-762-763-764-765-766-767-768-769-770-771-772-773-774-775-776-777-778-779-780-781-782-783-784-785-786-787-788-789-790-791-792-793-794-795-796-797-798-799-800-801-802-803-804-805-806-807-808-809-810-811-812-813-814-815-816-817-818-819-820-821-822-823-824-825-826-827-828-829-830-831-832-833-834-835-836-837-838-839-840-841-842-843-844-845-846-847-848-849-850-851-852-853-854-855-856-857-858-859-860-861-862-863-864-865-866-867-868-869-870-871-872-873-874-875-876-877-878-879-880-881-882-883-884-885-886-887-888-889-890-891-892-893-894-895-896-897-898-899-900-901-902-903-904-905-906-907-908-909-910-911-912-913-914-915-916-917-918-919-920-921-922-923-924-925-926-927-928-929-930-931-932-933-934-935-936-937-938-939-940-941-942-943-944-945-946-947-948-949-950-951-952-953-954-955-956-957-958-959-960-961-962-963-964-965-966-967-968-969-970-971-972-973-974-975-976-977-978-979-980-981-982-983-984-985-986-987-988-989-990-991-992-993-994-995-996-997-998-999-1000-1001-1002-1003-1004-1005-1006-1007-1008-1009-1010-1011-1012-1013-1014-1015-1016-1017-1018-1019-1020-1021-1022-1023-1024-1025-1026-1027-1028-1029-1030-1031-1032-1033-1034-1035-1036-1037-1038-1039-1040-1041-1042-1043-1044-1045-1046-1047-1048-1049-1050-1051-1052-1053-1054-1055-1056-1057-1058-1059-1060-1061-1062-1063-1064-1065-1066-1067-1068-1069-1070-1071-1072-1073-1074-1075-1076-1077-1078-1079-1080-1081-1082-1083-1084-1085-1086-1087-1088-1089-1090-1091-1092-1093-1094-1095-1096-1097-1098-1099-1100-1101-1102-1103-1104-1105-1106-1107-1108-1109-1110-1111-1112-1113-1114-1115-1116-1117-1118-1119-1120-1121-1122-1123-1124-1125-1126-1127-1128-1129-1130-1131-1132-1133-1134-1135-1136-1137-1138-1139-1140-1141-1142-1143-1144-1145-1146-1147-1148-1149-1150-1151-1152-1153-1154-1155-1156-1157-1158-1159-1160-1161-1162-1163-1164-1165-1166-1167-1168-1169-1170-1171-1172-1173-1174-1175-1176-1177-1178-1179-1180-1181-1182-1183-1184-1185-1186-1187-1188-1189-1190-1191-1192-1193-1194-1195-1196-1197-1198-1199-1200-1201-1202-1203-1204-1205-1206-1207-1208-1209-1210-1211-1212-1213-1214-1215-1216-1217-1218-1219-1220-1221-1222-1223-1224-1225-1226-1227-1228-1229-1230-1231-1232-1233-1234-1235-1236-1237-1238-1239-1240-1241-1242-1243-1244-1245-1246-1247-1248-1249-1250-1251-1252-1253-1254-1255-1256-1257-1258-1259-1260-1261-1262-1263-1264-1265-1266-1267-1268-1269-1270-1271-1272-1273-1274-1275-1276-1277-1278-1279-1280-1281-1282-1283-1284-1285-1286-1287-1288-1289-1290-1291-1292-1293-1294-1295-1296-1297-1298-1299-1300-1301-1302-1303-1304-1305-1306-1307-1308-1309-1310-1311-1312-1313-1314-1315-1316-1317-1318-1319-1320-1321-1322-1323-1324-1325-1326-1327-1328-1329-1330-1331-1332-1333-1334-1335-1336-1337-1338-1339-1340-1341-1342-1343-1344-1345-1346-1347-1348-1349-1350-1351-1352-1353-1354-1355-1356-1357-1358-1359-1360-1361-1362-1363-1364-1365-1366-1367-1368-1369-1370-1371-1372-1373-1374-1375-1376-1377-1378-1379-1380-1381-1382-1383-1384-1385-1386-1387-1388-1389-1390-1391-1392-1393-1394-1395-1396-1397-1398-1399-1400-1401-1402-1403-1404-1405-1406-1407-1408-1409-1410-1411-1412-1413-1414-1415-1416-1417-1418-1419-1420-1421-1422-1423-1424-1425-1426-1427-1428-1429-1430-1431-1432-1433-1434-1435-1436-1437-1438-1439-1440-1441-1442-1443-1444-1445-1446-1447-1448-1449-1450-1451-1452-1453-1454-1455-1456-1457-1458-1459-1460-1461-1462-1463-1464-1465-1466-1467-1468-1469-1470-1471-1472-1473-1474-1475-1476-1477-1478-1479-1480-1481-1482-1483-1484-1485-1486-1487-1488-1489-1490-1491-1492-1493-1494-1495-1496-1497-1498-1499-1500-1501-1502-1503-1504-1505-1506-1507-1508-1509-1510-1511-1512-1513-1514-1515-1516-1517-1518-1519-1520-1521-1522-1523-1524-1525-1526-1527-1528-1529-1530-1531-1532-1533-1534-1535-1536-1537-1538-1539-1540-1541-1542-1543-1544-1545-1546-1547-1548-1549-1550-1551-1552-1553-1554-1555-1556-1557-1558-1559-1560-1561-1562-1563-1564-1565-1566-1567-1568-1569-1570-1571-1572-1573-1574-1575-1576-1577-1578-1579-1580-1581-1582-1583-1584-1585-1586-1587-1588-1589-1590-1591-1592-1593-1594-1595-1596-1597-1598-1599-1600-1601-1602-1603-1604-1605-1606-1607-1608-1609-1610-1611-1612-1613-1614-1615-1616-1617-1618-1619-1620-1621-1622-1623-1624-1625-1626-1627-1628-1629-1630-1631-1632-1633-1634-1635-1636-1637-1638-1639-1640-1641-1642-1643-1644-1645-1646-1647-1648-1649-1650-1651-1652-1653-1654-1655-1656-1657-1658-1659-1660-1661-1662-1663-1664-1665-1666-1667-1668-1669-1670-1671-1672-1673-1674-1675-1676-1677-1678-1679-1680-1681-1682-1683-1684-1685-1686-1687-1688-1689-1690-1691-1692-1693-1694-1695-1696-1697-1698-1699-1700-1701-1702-1703-1704-1705-1706-1707-1708-1709-1710-1711-1712-1713-1714-1715-1716-1717-1718-1719-1720-1721-1722-1723-1724-1725-1726-1727-1728-1729-1730-1731-1732-1733-1734-1735-1736-1737-1738-1739-1740-1741-1742-1743-1744-1745-1746-1747-1748-1749-1750-1751-1752-1753-1754-1755-1756-1757-1758-1759-1760-1761-1762-1763-1764-1765-1766-1767-1768-1769-1770-1771-1772-1773-1774-1775-1776-1777-1778-1779-1780-1781-1782-1783-1784-1785-1786-1787-1788-1789-1790-1791-1792-1793-1794-1795-1796-1797-1798-1799-1800-1801-1802-1803-1804-1805-1806-1807-1808-1809-1810-1811-1812-1813-1814-1815-1816-1817-1818-1819-1820-1821-1822-1823-1824-1825-1826-1827-1828-1829-1830-1831-1832-1833-1834-1835-1836-1837-1838-1839-1840-1841-1842-1843-1844-1845-1846-1847-1848-1849-1850-1851-1852-1853-1854-1855-1856-1857-1858-1859-1860-1861-1862-1863-1864-1865-1866-1867-1868-1869-1870-1871-1872-1873-1874-1875-1876-1877-1878-1879-1880-1881-1882-1883-1884-1885-1886-1887-1888-1889-1890-1891-1892-1893-1894-1895-1896-1897-1898-1899-1900-1901-1902-1903-1904-1905-1906-1907-1908-1909-1910-1911-1912-1913-1914-1915-1916-1917-1918-1919-1920-1921-1922-1923-1924-1925-1926-1927-1928-1929-1930-1931-1932-1933-1934-1935-1936-1937-1938-1939-1940-1941-1942-1943-1944-1945-1946-1947-1948-1949-1950-1951-1952-1953-1954-1955-1956-1957-1958-1959-1960-1961-1962-1963-1964-1965-1966-1967-1968-1969-1970-1971-1972-1973-1974-1975-1976-1977-1978-1979-1980-1981-1982-1983-1984-1985-1986-1987-1988-1989-1990-1991-1992-1993-1994-1995-1996-1997-1998-1999-2000-2001-2002-2003-2004-2005-2006-2007-2008-2009-2010-2011-2012-2013-2014-2015-2016-2017-2018-2019-2020-2021-2022-2023-2024-2025-2026-2027-2028-2029-2030-2031-2032-2033-2034-2035-2036-2037-2038-2039-2040-2041-2042-2043-2044-2045-2046-2047-2048-2049-2050-2051-2052-2053-2054-2055-2056-2057-2058-2059-2060-2061-2062-2063-2064-2065-2066-2067-2068-2069-2070-2071-2072-2073-2074-2075-2076-2077-2078-2079-2080-2081-2082-2083-2084-2085-2086-2087-2088-2089-2090-2091-2092-2093-2094-2095-2096-2097-2098-2099-2100-2101-2102-2103-2104-2105-2106-2107-2108-2109-2110-2111-2112-2113-2114-2115-2116-2117-2118-2119-2120-2121-2122-2123-2124-2125-2126-2127-2128-2129-2130-2131-2132-2133-2134-2135-2136-2137-2138-2139-2140-2141-2142-2143-2144-2145-2146-2147-2148-2149-2150-2151-2152-2153-2154-2155-2156-2157-2158-2159-2160-2161-2162-2163-2164-2165-2166-2167-2168-2169-2170-2171-2172-2173-2174-2175-2176-2177-2178-2179-2180-2181-2182-2183-2184-2185-2186-2187-2188-2189-2190-2191-2192-2193-2194-2195-2196-2197-2198-2199-2200-2201-2202-2203-2204-2205-2206-2207-2208-2209-2210-2211-2212-2213-2214-2215-2216-2217-2218-2219-2220-2221-2222-2223-2224-2225-2226-2227-2228-2229-2230-2231-2232-2233-2234-2235-2236-2237-2238-2239-2240-2241-2242-2243-2244-2245-2246-2247-2248-2249-2250-2251-2252-2253-2254-2255-2256-2257-2258-2259-2260-2261-2262-2263-2264-2265-2266-2267-2268-2269-2270-2271-2272-2273-2274-2275-2276-2277-2278-2279-2280-2281-2282-2283-2284-2285-2286-2287-2288-2289-2290-2291-2292-2293-2294-2295-2296-2297-2298-2299-2300-2301-2302-2303-2304-2305-2306-2307-2308-2309-2310-2311-2312-2313-2314-2315-2316-2317-2318-2319-2320-2321-2322-2323-2324-2325-2326-2327-2328-2329-2330-2331-2332-2333-2334-2335-2336-2337-2338-2339-2340-2341-2342-2343-2344-2345-2346-2347-2348-2349-2350-2351-2352-2353-2354-2355-2356-2357-2358-2359-2360-2361-2362-2363-2364-2365-2366-2367-2368-2369-2370-2371-2372-2373-2374-2375-2376-2377-2378-2379-2380-2381-2382-2383-2384-2385-2386-2387-2388-2389-2390-2391-2392-2393-2394-2395-2396-2397-2398-2399-2400-2401-2402-2403-2404-2405-2406-2407-2408-2409-2410-2411-2412-2413-2414-2415-2416-2417-2418-2419-2420-2421-2422-2423-2424-2425-2426-2427-2428-2429-2430-2431-2432-2433-2434-2435-2436-2437-2438-2439-2440-2441-2442-2443-2444-2445-2446-2447-2448-2449-2450-2451-2452-2453-2454-2455-2456-2457-2458-2459-2460-2461-2462-2463-2464-2465-2466-2467-2468-2469-2470-2471-2472-2473-2474-2475-2476-2477-2478-2479-2480-2481-2482-2483-2484-2485-2486-2487-2488-2489-2490-2491-2492-2493-2494-2495-2496-2497-2498-2499-2500-2501-2502-2503-2504-2505-2506-2507-2508-2509-2510-2511-2512-2513-2514-2515-2516-2517-2518-2519-2520-252

Med Rec #: 000011694

Patient Location: UNKNOWN_ROOM-UNKNOWN_BED

DOB: [REDACTED] Gender: M Age: 28Y

Visit ID: 4920065

Patient Type: OUTPATIENT

Phone: (208)237-2875

Exam Reason: CHRONICK HEADACHES AND DIZZINESS

Order Phys: VOOK, JAMES

Read By: STEPHENS, GEORGE H

Procedure: 06/08/12 15:02 CT HEAD WO IMI

RADIOLOGY REPORT
IDAHO MEDICAL IMAGING

NAME: EDMO, TODD THOMAS

ROOM:

MR: 11694 ACCT: 4920065 ORD: 00011506208

GENDER: M AGE: 28 DOB: [REDACTED] TYPE: Outpatient

DATE OF EXAM: 6/08/2012

PHYSICIAN: JAMES VOOK

PROCEDURE: C.T. SCAN OF THE HEAD WITHOUT CONTRAST

COMPARISON: None.

INDICATIONS: Chronic headache and dizziness. Intermittent difficulty with speech, memory and vision.

TECHNIQUE: Noncontrast CT head was performed. The images were reconstructed in the axial, sagittal, and coronal planes.

FINDINGS:

VENTRICLES: Normal for age.

CEREBRUM: Normal for age.

CEREBELLUM: Normal for age.

BRAINSTEM: Normal for age.

BASAL CISTERNS: Normal for age.

SKULL: Normal for age.

OTHER: Negative.

CONCLUSION: Normal noncontrast CT of the brain.

George H. Stephens, M.D.

Dictated & Approved by: George H. Stephens, M.D. on 6/08/2012 at 15:42

Typed by: SL on 6/08/2012 at 15:59

Electronically Signed on 6/08/2012 at 17:11

Dictated by: GEORGE H. STEPHENS, MD

Date: 06/08/2012 17:10

Transcribed: 06/08/2012 17:09 By: STEPHENS, GEORGE H.

Visit ID: 4920065

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JUN. 6. 2012 9:41AM

FT HALL IHS HIM

NO. 491 P. 2/3

MEDICAL RECORD

CONSULTATION SHEET

Page 1 of 2

Consult Request: Consult

Consult No. 23708

To: Medical Imaging Priority 2-5

From: GENERAL VOOK

Requested: 06/05/2012 10:19 am

Requesting Facility: FT HALL H CT

ATTENTION: FOKIBRO, JOHNNA

REASON FOR REQUEST: (Complaints and findings)

MEDICAL IMAGING REFERRAL

EDMO, TODD T DOB: AUG 10, 1983

Phone: 208-237-2875 (home)

Remarks: CHRONIC HEADACHES AND DIZZINESS

ELIGIBILITY STATUS: CHS & DIRECT

INSURANCE: No Insurance Coverage Found

LENGTH OF REFERRAL: One Visit

Priority Level 2: Acute Primary and Preventive Care Services:

TODD: CALL CONTRACT HEALTH AT 238-5435

NEXT FRIDAY TO INQUIRE IF YOUR REFERRAL WAS APPROVED OR DENIED.

CT without contrast, Head

Is the patient claustrophobic? Unknown

Is the patient over 350 lbs (150 kg)? No

Does the patient have a pace maker? No

Any previous surgery on area being scanned? Unknown

NOTES TO SCHEDULER: HX OF HEAD INJURY

Idaho Medical Imaging (CHS Contracted), 1151 Hospital Way Bldg B,
Pocatello 233-3000.

PROVISIONAL DIAG: CHRONIC HEADACHES AND DIZZINESS

REQUESTED BY:

VOOK, JAMES MD

MEDICAL OFFICER

(Pager:)

(Phone:)

PLACE:

Consultant's choice

URGENCY:

Routine

SERVICE RENDERED AS:

Outpatient

AUTHOR & TITLE:

DATE:

ID #:

ORGANIZATION:

FT HALL H CT

REG #:

LOC: GENERAL VOO

EDMO, TODD T

10878

08/10/1983

RT 2 N BOX 80 F

CONSULTATION SHEET

Standard Form 513 (Rev 9-77)

JUN. 6. 2012 9:41AM FTHALL IHS HIM

NO. 491 P. 3/3

MEDICAL RECORD

CONSULTATION SHEET

Page 2 of 2

Consult Request: Consult

Consult No. 23708

CHART COPY

No Consultation Results available.

(Added Comment)

Entered by: POKIBRO, JOHNNA - 06/05/2012 2:44 pm

Responsible Person: POKIBRO, JOHNNA

approved

EDMO, TODD T

12:24 08/15/2003

PORTNEUF MEDICAL CENTER
651 MEMORIAL DRIVE
POCATELLO, IDAHO 83201

EMERGENCY DEPARTMENT REPORT

PT NAME: EDMO, TODD THOMAS	ROOM: ER
PT DOB: [REDACTED] PT AGE: 19Y	MR: 11694
DATE OF VISIT: 07/30/2003	ACCT: 3242396
ATTN PHYS: CRAIG L. BOSLEY, M.D.	PT TYPE: O
	DD: 08/01/2003
	TD: 1946
	DT: 08/02/2003

CHIEF COMPLAINT:

Dried blood in the right ear canal.

HISTORY OF PRESENT ILLNESS:

The patient is a 19-year-old male who reports he was in an altercation two days ago and got punched in the right ear. Today the patient was cleaning his ear and got some dried blood out of it. The patient does have a history of a previous head injury and is deaf in that right ear. He does not complain of any pain in the inner ear, only on the outer ear itself. Denies fevers, chills, nausea, or vomiting. No headache or visual disturbances.

PAST MEDICAL HISTORY:

Head injury apparently in May with an epidural.

MEDICATIONS:

Zoloft, Serotonin.

ALLERGIES:

None.

SOCIAL HISTORY:

Denies tobacco and alcohol.

REVIEW OF SYSTEMS:

As above, all others are negative.

PHYSICAL EXAMINATION:

VITAL SIGNS: Blood pressure 114/58, heart rate 89, respirations 20, temperature 98.6, SPO2 is 96%. GENERAL: The patient is well-developed, well-nourished in no acute distress. HEENT: Head is normocephalic. There is small amount of ecchymosis on the auricle of the right ear. There is no mastoid tenderness. Pupils equal, round and reactive to light. Conjunctivae is clear. Extraocular muscles are intact. TMs, left is clear. The right does have dried blood in the canal. The TM is not able to be seen. Pharynx is moist without erythema. He has no malocclusion. No tenderness on the mandible. NECK: Supple and nontender. No lymphadenopathy or masses or lesions. NEUROLOGIC: Cranial nerves II through XII are intact except for decreased hearing in the right ear. DTR's are 2+.

Discussion was made with the patient and his mother. I felt that this was probably a ruptured TM.

2013 -11- 19

LB
STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

JANIECE PRICE ISB #7161
Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

TODD THOMAS EDMO,

Defendant.

CASE NO. CR-2013-3258-FE
SUPPLEMENTAL
REQUEST FOR DISCOVERY
EXPERT WITNESS

TO: LINDSEY A. BLAKE, Public Defenders Office, Pocatello, Idaho, Attorney for the Defendant.

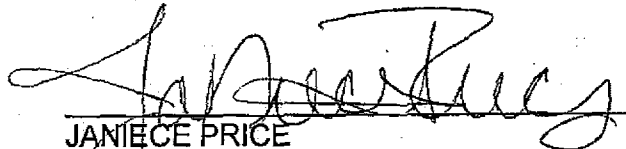
PLEASE TAKE NOTICE that the undersigned, pursuant to Rule 16 of the Idaho Criminal Rules requests discovery and inspection of the following information, evidence, and materials:

1. Please provide a written summary or report of any expert testimony that the defense intends to introduce at trial. The summary must describe the witness's opinions, the facts and data for those opinions and the witness's qualifications.

REQUEST - Page 1

D

DATED this 18th day of November, 2013.

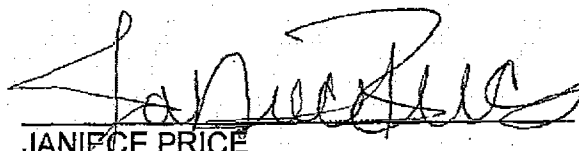

JANIECE PRICE
Deputy Prosecuting Attorney
Bannock County, Idaho

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 18th day of November, 2013, a true and correct copy of the foregoing SUPPLEMENTAL REQUEST FOR DISCOVERY was delivered to the following:

LINDSEY A. BLAKE
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, IDAHO 83205

☐ mail -
postage prepaid
☐ hand delivery
☐ facsimile
☒ courthouse mailbox


JANIECE PRICE

RANDALL D. SCHULTHIES
Chief Public Defender
P.O. Box 4147
Pocatello, ID 83205-4147
(208) 236-7040
FAX (208) 236-7048

LINDSEY A. BLAKE
Deputy Public Defender
ISB 7920

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 MAR 17 PM 4:09
BY _____
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO)	
	)	CASE NO. CR-2013-3258-FE-B
Plaintiff,)	
)	
v.	)	DEFENDANT'S SECOND RESPONSE
	)	TO PLAINTIFF'S REQUEST
TODD THOMAS EDMO,	)	FOR DISCOVERY
)	
<u>Defendant.</u>)	

TO: JaNiece Price, Assistant Chief Deputy Bannock County Prosecutor, Bannock
County Courthouse, Pocatello, Idaho, 83205.

COMES NOW Todd Thomas Edmo, through his attorney, Lindsey A. Blake, Deputy
Public Defender, and responds to the State's request for discovery as follows:

2. See attached report of Dr. Daniel Traugher. Defendant submits the report to the
prosecutor for inspection, notwithstanding, portions of the report may be excluded
through motions in limine and the Defendant reserves the right to object to admission of
irrelevant or inadmissible portions of the report for purposes of trial.

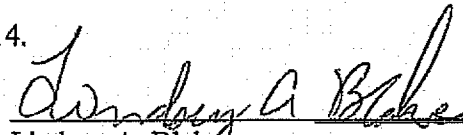
**DEFENDANT'S RESPONSE TO PLAINTIFF'S
REQUEST FOR DISCOVERY PAGE 1**

E

5. Dr. Daniel Traughber. See attached Professional Vitae. An updated Professional Vitae will be provided upon receipt by defense counsel. The State should be aware of Dr. Traughber and his qualifications since they have previously used him as an expert and to perform various evaluations. See attached report referred to in response to #1.

Defendant reserves the right to supplement it's response to the request for discovery prior to trial.

DATED this 17th day of March, 2014.

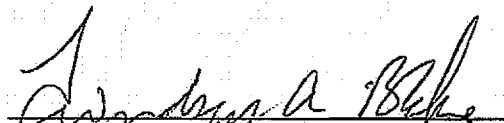

Lindsey A. Blake
Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17th day of March, 2014, I served a true and correct copy of the **DEFENDANT'S RESPONSE TO PLAINTIFF'S REQUEST FOR DISCOVERY** was served upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 215
Bannock County Courthouse
Pocatello, Idaho 83205

X[] Hand Deliver
[] First Class Mail
[] Certified Mail
[] Facsimile


Lindsey A. Blake
Deputy Public Defender



SANCTUARY: NEUROPSYCHOLOGY & TREATMENT CONSULTANTS

CONFIDENTIAL NEUROPSYCHOLOGICAL EVALUATION

Name: Todd Edmo

Date of Birth: [REDACTED]

Age: 30

Reason for Referral:

Todd Edmo is a 30-year-old Hispanic/Native-American male referred by Lindsey Blake (his attorney), for a neuropsychological evaluation. Todd has a history of splintered learning delays, including severe math difficulties and other academic issues. Of note, Todd suffered a traumatic brain injury, about 11 years ago, that resulted in impaired cognitive and motor abilities. Therefore, the purpose of the present neuropsychological evaluation is to re-assess his cognitive functioning, investigate his current mental status, delineate any appropriate diagnoses, and provide treatment recommendations.

Methods / Tests Administered:

Medical Record Review

Clinical Interview

Behavioral Observation

Wechsler Adult Intelligence Scale-4th Edition (WAIS-IV)

Delis-Kaplan Executive Function System (D-KEFS)

Conners' Continuous Performance Test, 2nd Edition (CPT-II)

Rey-Osterieth Complex Figure Test (CFT)

California Verbal Learning Test-Second Edition (CVLT-2)

Millon Clinical Mutliaxial Inventory-III (MCMI-III)

Personality Assessment Inventory (PAI)

Social History:

Mr. Edmo reported being born on time and without any complications that he knew of. He also denied that his mother was exposed to any teratogens during her pregnancy with him, although this information is unverified. He reported some minor difficulty with meeting his developmental milestones and with academic achievement. Mr. Edmo reported having a severe head trauma at age 19. He fell of a 5-foot-deck on to concrete. Mr. Edmo landed on his head on the right side, leaving an indentation. This resulted in loss of consciousness, paralysis of the right-side of his body, loss of hearing in the right ear, a week in the ICU, and about a month in the rehabilitation/after care unit. During this period, he also had to relearn to walk and talk. He could not remember whether he also had to relearn to read and write. Mr. Edmo reported no other major illnesses, surgeries, or accidents during his childhood and adulthood. Mr. Edmo reported currently taking Effexor (depression), a generic for bupropion (depression), gabapention (pain management), and Xanax (anxiety). Historically, he has also taken a variety of medications to try and control pain, anxiety, panic attacks, and depression. He noted that he has taken his current medication regime since August of this year, and it appears to be the most effective for him thus far.

Mr. Edmo currently lives with his girlfriend in Pocatello. They have been together on and off since junior high. He reported being divorced from another woman since 2004; the marriage lasted 9 months. He has two children, and participates in supervised visits every Monday. His daughter is 5 and his son is 3 ½ years old. Mr. Edmo reported that his parents are both in the area and they are supportive. He also has two brothers, but they are in Mexico. He has other extended family in the area with whom he is close. Mr. Edmo reported that his girlfriend appears to be his biggest family/social support, currently. He reported a family history of depression and anxiety, but denied major medical or other major mental illness.

Mr. Edmo graduated high school at almost age 20. He struggled with the requirements of classes. He reported often feeling confused and overwhelmed by the work. Mr. Edmo also reported being involved in special education programs throughout his schooling, but being embarrassed by this fact, thus reducing his effort in some ways. Mr. Edmo was transferred from Pocatello High School to the New Horizons Alternative High School in order to try to give him additional supports and one-on-one instruction. Of note, Mr. Edmo had his head trauma prior to graduating high school. He reported being in and out of juvenile detention throughout his adolescence. This was mainly due to drinking and fighting. Previous offenses have included delinquency, assault, battery, and 2 DUIs. His current charges are two felony batteries on an officer. He spent 6 months in jail and then "bonded out."

Mr. Edmo has worked in various positions including dishwashing, doing oil changes, and working for the Heinz plant during high school. However, after his injury he received SSI benefits and has been unable to maintain regular employment. After Mr. Edmo's recent legal issues, he lost these benefits and went back to work. He currently works at Basic Foods in Blackfoot "dumping" bins. He has worked there for the past month. He reported that the work is okay, but he had difficulty learning the expectations, though they were quite low. He reported that he became confused and overwhelmed with the work to begin with, but finally just followed another employee in the same position until he learned the position. He further noted that he believes that if he were to not do the job for a few weeks, he would have to relearn the entire process; he has trouble retaining what he has learned. He has some benefits from being a Native American including being able to utilize their medical clinic for services. He also is considering reapplying for SSI benefits, but notes that it is hard to live on it. Mr. Edmo reported that he has always had difficulty with his finances and will often forget to pay bills by himself and have trouble accounting for his money. Mr. Edmo reported that currently his girlfriend helps him pay all his bills.

Mr. Edmo reported a small social circle, but reported all his friends have their own family and kids. He noted that because of this he does not spend much time socializing anymore. He also reported that work keeps him pretty busy. He has a long-term girlfriend, they have dated each other on-and-off for 20-25 years, that he spends time with often. He visits with his children on Monday's. He reported being part of a Church.

Neuropsychological Assessment:

Records Review:

Mr. Edmo participated in neuropsychological testing with Dr. Corgiat following his head injury (2003). Those records were reviewed and his testing results were compared to the results of the current neuropsychological testing. Dr. Corgiat observed that he demonstrated serious deficits in both verbal and nonverbal general cognitive abilities (i.e., IQ), processing speed, basic attention, language skills, and academic skills. Further, he displayed severe impairments in complex attention, memory, motor skills, and executive functioning.

Behavioral Observations and Mental Status:

Todd Edmo is a 30-year-old, Hispanic/Native American, male. He appeared his chronological age. Further, he presented appropriately dressed in casual attire. He was interested in the testing process, was cooperative throughout testing, and appeared to have consistently high levels of motivation to perform well. His gait, and gross and fine motor activities were noticeably slowed, and reported less grip strength and manual dexterity than from before his head injury. He related aural problems that affect his perceptions, reportedly right ear hearing loss due to his head injury. He also reported blurred visual perception at times, with no corrective measures. However, he indicated that he was able to perceive all of the stimuli during testing.

Mr. Edmo's thoughts were logical and coherent as observed through his verbal communications. His articulation and volume were within the normal range. Mr. Edmo was friendly, informative, and participated fully in tasks. However, he was quiet and did not spontaneously offer any information or try to initiate conversation. Bizarre content was not noted in his thinking. He did not describe nor appear to be experiencing internal stimulation from hallucinations. He reported a past suicidal attempt around his freshman year of high school, where he attempted to overdose on pills. Mr. Edmo reported that he almost immediately regurgitated them. Although he reported some suicidal ideation throughout adolescence and adulthood, he reported no current plan or intent. His affect was positive, although he reported that his mood was variable with some depression, difficulty dealing with stress, past events, and anxiety.

Psychometric Data:

Please refer to the data addendum for individual test results.

Integrated Summary and Clinical Impressions:

Todd Edmo is a 30-year-old Hispanic/Native-American male referred by Lindsey Blake (his attorney), for a neuropsychological evaluation. Mr. Edmo has a history of splintered learning delays, including severe math difficulties and other academic issues. Of note, he suffered a traumatic brain injury, about 11 years ago, that resulted in impaired cognitive and motor abilities. Therefore, the purpose of the present neuropsychological evaluation is to re-assess his cognitive functioning, investigate his current mental status, delineate any appropriate diagnoses, and provide treatment recommendations.

Based upon the results of the current neuropsychological evaluation results, the following is Mr. Edmo's general cognitive, specific neuropsychological, and psychiatric profile:

Neuropsychological Category	Specific Cognitive Ability	Range or Level of Impairment	Description
General Cognitive Abilities/IQ:			
	General Cognitive Abilities:	Borderline Range	Mr. Edmo's general cognitive abilities fall in the borderline range of functioning.
	Verbal Reasoning:	Borderline Range	Mr. Edmo's verbal reasoning abilities fall in the borderline range of functioning.
	Non-verbal Reasoning:	Low Average Range	Mr. Edmo's non-verbal reasoning abilities fall in the low average range of functioning.
	Crystallized Intelligence	Serious Impairment	Mr. Edmo's crystallized intelligence abilities fall in the seriously impaired range. In other words, his ability to utilize and the overall sophistication of his knowledge structures are markedly below others his age.

	Fluid Intelligence	Severe Impairment	Mr. Edmo's fluid intelligence, or his ability to quickly adjust and handle new and novel cognitive tasks, is quite impaired in comparison to others his age.
Cognitive Processing:			
	Processing Speed	Mild Impairment	Mr. Edmo's basic processing speed appears to be mildly impaired, meaning it takes him somewhat longer to process information and react to it than most people.
	Decision Speed	Serious Impairment	Mr. Edmo's ability to process information and respond with more complex decisions or responses appears to be seriously impaired, meaning it takes him much longer to respond to stimuli with a decision than most people.
	Serial/ Sequential Processing	Within Normal Limits	It appears that Mr. Edmo does not have difficulty processing information sequentially, or sequencing his responses.
	Gestalt/ Organizational Processing & Need For Cognition	Mild Impairment	It appears that Mr. Edmo's ability to process information in a holistic manner is somewhat impaired.
Attention:			
	Sustained Attention	Mild Impairment	Mr. Edmo's ability to concentrate and be vigilant across time appears to be mildly impaired.
	Selective/Directed Attention	Severe Impairment	Mr. Edmo's ability to effortfully monitor for and act upon specific stimuli appears to be severely impaired. This problem affects his ability direct his attention and to engage in cognitively demanding tasks.
	Awareness/ Detectability	Serious Impairment	Mr. Edmo's ability to detect and adjust his performance to subtle changes to the cognitive demands of a task appear markedly impaired in comparison to others.
Memory:			
	Short-term Memory	Mild Impairment	Mr. Edmo's short-term memory storage appears to be mildly impaired. Though he tends to rely upon it heavily, he has much more difficulty transitioning information from short-term to long-term memory.
	Encoding/ Learning	Serious Impairment	Mr. Edmo's ability to learn remains seriously impaired. It appears that with repetition, he can learn new information and skills, but it will take him far longer than most individuals. Further, his learning timeframe will likely exceed most employers' tolerance for learning new skills.
	Storage	Mild	Mr. Edmo's ability to store information in

		Impairment	memory appears to be mildly impaired. This suggests he is unable to retain some of what he learns. More so than many his age.
	Retrieval	Serious Impairment	Mr. Edmo's ability to retrieve information from memory appears to be seriously impaired. Even with cueing and prompts, he struggles to access the information he has stored in long-term memory.
Language:			
	Receptive Language	Within Normal Limits	It does not appear that Mr. Edmo has any overt limitations processing incoming verbal information.
	Expressive Language	Within Normal Limits	It does not appear that Mr. Edmo has any overt limitations expressing himself.
Executive Functions:			
	Complex Attention/Supervisor Attentional System:	Severely Impaired	Mr. Edmo's ability to shift between tasks while processing information appears to be severely impaired. This directly affects his ability to focus on more than one task at a time, learn new rules for tasks, or remember something while engaging in a mental task.
	Inhibitory Control/ Susceptibility to Interference	Severely Impaired	Mr. Edmo's impulse control appears to be severely impaired. His ability to cognitively and behaviorally resist interference and control his impulses fall markedly below most individuals, especially when emotionally distraught, when highly motivated by desire, or otherwise impaired.
	Working Memory Capacity	Seriously Impaired	Mr. Edmo's ability to hold information in his short-term memory while manipulating it is markedly reduced in comparison to most individuals.
	Problem Solving: Deductive & Inductive Reasoning	Seriously Impaired	It appears that Mr. Edmo's ability to problem solve and engage in inductive and deductive reasoning both cognitively and in his daily life is markedly below others. In part, this stems from impulsivity and difficulty fully understanding the nature of problems with minimally defined parameters.
	Abstract Reasoning	Mild Impairment	It appears that Mr. Edmo's ability to think abstractly and understand metaphor is somewhat impaired in comparison to many individuals.
Psychiatric Symptoms			
	Anxiety	Serious Impairment	Mr. Edmo appears to experience consistent anxiety focused on new experiences and dealing with others (with several physical symptoms) and general mistrust of those around him.

	Depression	Severe Impairment	Mr. Edmo appears to be experiencing a number of severe symptoms related to mood instability including low mood, self-harm behavior, periodic suicidal ideation, mood lability, fatigue, and feelings of guilt, despair, and hopelessness.
	Personality Problems	Serious Impairment	Mr. Edmo describes problems with impulsivity, high risk behavior, aggression, self-criticalness, avoidance of problems, fear of rejection, emptiness, poor identity, and self-destructive behavior.
	Relationships	Serious Impairment	Mr. Edmo has had long-term relationship problems tied to his cognitive and psychiatric impairments.
	Substance Abuse	Severe Impairment	Mr. Edmo has a long substance abuse history. Primarily, he has an alcohol dependence which has become one of his main coping mechanisms for dealing with his psychological problems.

Legend:

Within Normal Limits – Scores and behavior falling within the normal range of functioning

Mild Impairment – Scores and behavior falling about 1-2 standard deviations below the mean (i.e., approximately at or below the 13th percentile)

Serious Impairment – Scores and behavior falling about 2-3 standard deviations below the mean (i.e., approximately at or below the 2.5th percentile)

Severe Impairment – Scores and behavior falling >3 standard deviations below the mean (i.e., approximately at or below the 1st percentile)

Mr. Edmo's current impairments were compared to those identified during the first neuropsychological evaluation he received following his head injury (2003). Most individuals recover some of their cognitive abilities within two to three years following an injury like his. However, in Mr. Edmo's case few of his cognitive functions have made improvement since his injury. The only notable exception is that some of his motor skills have recovered somewhat. The most likely explanation for his current neuropsychological problems is three-fold. First, there is evidence that Mr. Edmo has experienced a broad intellectual deficit since early childhood, thus explaining the wide number of impairments he displayed and the difficulty he experienced in school as a child. Second, his specific organizational, processing speed, motor problems, hearing loss, and executive functioning problems are common with head injuries such as his. Third, he has had little improvement, and some worsening, of his symptoms during the last 11 years. There is a high likelihood that this is, in part connected to his chronic alcohol dependence. This type of alcohol consumption can halt brain recovery and cause further deterioration.

Due to Mr. Edmo's impairments and symptoms, he is likely to experience high levels of impulsivity and poorly controlled behavior (especially when emotionally distraught, intoxicated, or highly motivated), slowed thinking and speaking, poor problem solving skills, periodic confusion, poor reasoning, poor decision making, limited ability to plan ahead, difficulty thinking of the "big picture," emotional lability, anxiety, depression, and angry outbursts to name a few. Of note, unlike cognitively normal individuals, it is common for distressed or otherwise impaired individuals with broad intellectual deficits to become overwhelmed by external sensory experiences (e.g., noise, talking, touch, etc.) and become increasingly agitated and potentially aggressive. Individuals such as Mr. Edmo are better able to reduce their agitation and regain self-control when put in a safe, low-sensory environment and given time for their central nervous system reach homeostasis.

Based on these data the following diagnoses and recommendations are offered:

Diagnoses:

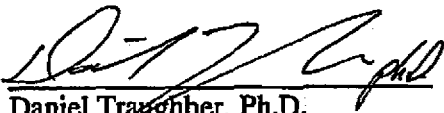
Axis I:	294.90	Cognitive Disorder, Not Otherwise Specified (Secondary to Traumatic Brain Injury)
	303.90	Alcohol Dependence
	296.33	Major Depressive Disorder, Recurrent, Severe without Psychotic Features
	300.00	Anxiety Disorder, Not Otherwise Specified
Axis II:	V62.89	Borderline Intellectual Functioning
Axis III:		Traumatic Brain Injury
Axis IV:		Cognitive, Legal, Medical, Emotional, Substance Abuse, and Relationship Problems

Recommendations:

The prognosis for Mr. Edmo's impairments including cognitive, emotional, and coping problems, without treatment, is of concern. It is likely, without treatment, Mr. Edmo will continue to experience a decrease in functioning. In particular, Mr. Edmo needs continued treatment focused on goals that will help him increase his coping strategies, cognitive strategies, sobriety, and mood stability. Each of the following recommendations will have these goals as a core focus. Therefore, based upon the results of this evaluation, it is recommended that Mr. Edmo participate with the following:

1. *Outpatient Treatment:* Following or as part of the resolution of his legal problems, Mr. Edmo will need considerable support in the community for him to function and avoid future legal problems. The following outpatient treatments can be beneficial:
 - a. *Medication Management:* Mr. Edmo will need to continue to participate in medication management primarily to help with his mood symptoms and anxiety. As he has reported currently taking a medication regime that seems to be helpful, it is recommended that he continue with that and have regular appointments with a psychiatrist or other qualified provider to manage his medications. Stopping his medications will likely increase his substance abuse problems.
 - b. *Individual Treatment:* Individual treatment such as counseling is helpful for individuals such as this. The goals of treatment for Mr. Edmo should focus on managing his mental health symptoms, improving his relationships, developing new coping and cognitive skills, and improving his relationships. Furthermore, due to the nature of his problems, the treatment will likely be longer than the average person seeking counseling.
 - c. *Substance Abuse Treatment:* Mr. Edmo will also need both individual and group substance abuse treatment. As using illicit substances has been a primary coping skill for dealing with stress and problems throughout his life.
 - d. *Neuropsychological Assessment:* It would be valuable for Mr. Edmo to participate in a neuropsychological assessment in about 24 months to re-assess his cognitive profile and monitor for stabilization, improvement, or decreases in his functioning, as these will affect his functioning in the community and direct his treatment.
 - e. *Supportive Therapies:* Individuals with these difficulties also often benefit from supportive forms of therapy that aid in helping a person with daily living skills. For example, they can take the form of vocational rehabilitation, case management and/or psychosocial rehabilitation.
 - f. *Supervision:* In order for Mr. Edmo to continue his treatment regime and avoid more legal problems, he would benefit from some form of supervision.

Thank you, for this referral and please do not hesitate to contact us if you have questions at:
(208) 417-0623.



Daniel Traughber, Ph.D.
Licensed Clinical Psychologist
PSY - 202543

3-10-14

Date

Daniel L. Traugher, Ph.D.
Professional Vitae

Personal Information

Current Business Address:

Seasons of Hope
4650 Hawthorne rd. STE 3B
Chubbuck, ID 83202
Phone: (208) 237-9833
Fax: (208) 237-1800

Contact Information:

Cell Phone: (208) 251-8858
E-Mail: d.traugher@seasonsofhope.us

Educational History

2002 – 2008

Doctor of Philosophy
Idaho State University (APA Accredited)
Major: Clinical Psychology
Dissertation: Activation and Inhibition as Fundamental
Mechanisms Underlying Individual Differences in Working
Memory
Major Advisor: Kandi Jo Turley-Ames, Ph.D.

2000 – 2002

Master of Science
Idaho State University
Major: Experimental Psychology
Thesis: Inhibitory Mechanisms Associated with Individual
Differences in Working Memory
Major Advisor: Kandi Jo Turley-Ames, Ph.D.

1995 – 2000

Bachelor of Science
Idaho State University
Major: Psychology
Major Advisor: Kandi Jo Turley-Ames Ph.D.

Professional Work Experience

2010 – Present

Chief of Psychology ~ Seasons of Hope
Private Mental Health & Developmental Disability Clinic
Responsibilities:
- Oversee all & conduct part of the forensic,
neuropsychological, & psychological assessments for the

Pocatello, Blackfoot & Preston offices

- Supervise service extenders (M.S. & Ph.D.) in therapy and assessment
- Direct the internship program from ISU, including the fields of psychology, social work, counseling, speech therapy, occupational therapy, and physical therapy.
- Conduct didactic and CEU trainings for interns, clinicians, and staff
- Conduct psychotherapy

2009 – 2010

Clinical Supervisor ~ Adult Mental Health Teams

Department of Health & Welfare Region VI

Supervisor: Heath Sommer, Ph.D.

Responsibilities:

- Conduct forensic evaluations
- Provide supervision for clinicians, case managers, and interns (M.S. & Ph.D.) conducting forensic and crisis assessments and providing ACT and crisis level treatment
- Coordinating and conducting didactics, trainings, and CEU's for pre-PhD. interns and Region VI, VII, and SHS mental health employees
- Conduct designated examinations
- Consult on mental health issues with Mental Health Court
- Conduct neuro-cognitive assessments
- Provide psychotherapy

2008 – 2009

Clinician ~ Crisis Team

Department of Health & Welfare Region VI

Supervisor: Robb Dye, LCSW

Responsibilities:

- Conduct 19-2524 (pre-sentencing) mental health forensic evaluations
- Provide supervision for clinical interns conducting assessment and therapy, and supervision for interns conducting research
- Conduct designated examinations
- Consult on mental health issues with Drug Court
- Conduct neuro-cognitive assessments

2007 – 2008

Clinician

State Hospital South

Supervisor: Richard Baker, Ph.D.

Responsibilities:

- Develop and provide in-patient treatment groups

- Provide case management (i.e., assessment, treatment, and discharge planning)
- Conduct neuro-cognitive assessments
- Assist in supervising clinic psychology practicum students

2006 – Present

Adjunct Professor

Idaho State University

Supervisor: Kandi-Turley-Ames, Ph.D.

Responsibilities:

- Instruct courses (i.e., Introduction to Psychology, 101; History of Psychology, 472; Cognitive Psychology, 466; & Memory Disorders, 499/599)
- Develop and present subject material, exams, etc.
- Monitor and record student performance

2006 – 2007

Clinician

Pocatello Women's Correctional Center

Supervisors: Mary Perrin, Ph.D., & Brain Underwood (Warden)

Responsibilities:

- Conduct suicide risk assessments (on-call)
- Provide treatment groups
- Develop and administer prison-wide psychotherapeutic programs
- Supervise psychology extern and practicum students

2005 – 2006

Clinical Psychology Intern

State Hospital South

Supervisors: Nels Sather, Ph.D., Richard Swenson, Ph.D., & Richard Baker, Ph.D.

Responsibilities:

- Conduct neuro-cognitive and forensic assessments
- Lead in-patient treatment group

Pocatello Women's Correctional Center

Supervisor: Linda Hatzenbeuhler, Ph.D.

Responsibilities:

- Conduct forensic (parole and psycho-sexual) evaluations

Pocatello Family Medicine & Portneuf Behavioral Health Services

Supervisor: John Dickey, Ph.D.

- Provide out-patient and in-patient individual and group psychotherapy
- Conduct ADHD and neuro-cognitive assessments

2004 – 2005

Clinical Extern

Pocatello Family Medicine

Supervisor: John H. Dickey, Ph.D.

Responsibilities:

- Conduct neuro-cognitive assessments
- Provide out-patient psychotherapy
- Conduct neuro-cognitive research using Methylphenidate and placebo with adult ADHD patients
- Observe commitment hearings

2003 – 2004

Graduate Instructor

Idaho State University

Supervisor: Linda Enloe, Ph.D.

Responsibilities:

- Review, organize, and present course material for "Introduction to Psychology, 101" course in lecture format
- Develop, administer, and grade tests and course work
- Manage and report grades

2002 – 2003

Clinical Extern

Advocacy and Learning Associates, Pocatello, Idaho

Supervisor: Mark W. Roberts, Ph.D.

Responsibilities:

- Conduct developmental disability assessments
- Supervised and maintained the organization's behavioral control records and procedures
- Conduct parent-therapist meetings

2001 – 2002

Graduate Teaching Assistant

Idaho State University

Supervisors: Crystal Dehle Ph.D. & Nicole Guajardo, Ph.D.

Responsibilities:

- Develop and teach introductory statistics lab
- Proof read and correct grammar, wording, and APA format
- Managed and recorded grades
- Administered tests

Supervisory Experience

2010 – Present

Chief of Psychology ~ Seasons of Hope

Private Mental Health & Developmental Disability Clinic

Responsibilities:

- - Oversee all & conduct part of the forensic, neuropsychological, & psychological assessments for the Pocatello, Blackfoot & Preston offices

- Supervise service extenders (M.S. & Ph.D.) in therapy and assessment
- Direct the internship program from ISU, including the fields of psychology, social work, counseling, speech therapy, occupational therapy, and physical therapy.
- Conduct didactic and CEU trainings for interns, clinicians, and staff

2009 – 2010

Clinical Supervisor (Region VI, Adult Mental Health)

Responsibilities:

- Provide supervision for clinicians, case managers, and interns (M.S. & Ph.D.) conducting forensic and crisis assessments and providing ACT and crisis level treatment
- Coordinating and conducting didactics, trainings, and CEU's for pre-PhD. interns and Region VI, VII, and SHS mental health employees

2008 – 2009

Clinician (DHW Region VI, Crisis Team)

Responsibilities:

- Acting Clinical Supervisor of the Crisis Response Team
- Supervision of clinicians completing 19-2524 forensic evaluations
- Supervision of clinical interns on assessment and therapy cases
- Supervision of interns conducting research

2007 – 2008

Clinician (State Hospital South)

Responsibilities:

- Assisting Nels Sather, Ph.D. with supervision of clinical psychology practicum students

2006 – 2007

Clinician (Pocatello Women's Correctional; Center)

Responsibilities:

- Supervision of clinical psychology extern and clinical psychology practicum students

2005 – 2006

Psychology Intern (Portneuf Behavioral Health)

Responsibilities:

- Assisting John Dickey Ph.D. with supervision of clinical psychology practicum students

2001 – 2004

Lead Research Assistant (Idaho State University)

Responsibilities:

- Supervising graduate and undergraduate research assistants

Teaching & Tutoring Experience

- 2005 – Present** **Introduction to Psychology (Psych 101), History of Psychology (472), Cognitive Psychology (466), & Memory Disorders (499/599)**
Position: Adjunct Faculty/Instructor
Supervisor: Kandi Jo Turley-Ames, Ph.D.
Idaho State University
- 2003 – 2004** **Introduction to Psychology (Psych 101)**
Position: Instructor
Supervisor: Linda Enloe, Ph.D.
Idaho State University
- 2002** **Senior Seminar (Psych 440)**
Position: Graduate Teaching Assistant
Supervisor: Nicole Guajardo, Ph.D.
Idaho State University
- 2001** **Introductory Statistics (Psych 227)**
Position: Graduate Teaching Assistant/Lab Instructor
Supervisor: Crystal Dehle, Ph.D.
Idaho State University
- 1998** **Experimental Psychology (Psych 303)**
Position: Tutor
Supervising organization: CAT program
Idaho State University

Educational Clinical Experience

- 2004** **Pocatello Family Medicine Externship**
Pocatello Family Medicine Clinic
Supervisor: John H. Dickey Ph.D.
Responsibilities:
- Cognitive assessment of adult ADHD, learning disorders, and memory problems associated with head trauma
 - Providing cognitive behavioral and interpersonal therapy for adult psychopathology
 - Conducting neuro-cognitive research using Methylphenidate and placebo with adult ADHD patients
 - Observing commitment hearings
- 2004** **Psychosocial Child Therapy Practicum**

Idaho State University Psychology Clinic

Supervisor: Mark W. Roberts Ph.D.

Responsibilities:

- Psychosocial child assessment, including behavioral, self-report, cognitive, and achievement assessment
- Conducting parent training for psychosocial problems, including implementing token economies, time-out procedures, and modeling

2004

State Psychiatric Hospital Practicum

State Hospital South, Blackfoot, Idaho

Supervisor: Nels Sather, Ph.D.

Responsibilities:

- Lead cognitive-behavioral skill/symptom management group for inpatients with psychotic disorders
- Conducting neuro-cognitive assessments
- Attended interdisciplinary staff meetings
- Conducting intake interviews with newly admitted patients

2004

Interdisciplinary Evaluation Team

Idaho State University

Supervisor: Mark W. Roberts, Ph.D.

Responsibilities:

- Assessment of cognitive functioning, achievement, and/or behavioral problems for children
- Conducted psychological evaluation as a member of the interdisciplinary assessment team
- Presented findings at staff meetings, which included other team members, the client, and his/her parent

2004

Portneuf Behavioral Health Services

Portneuf Hospital (Short-term Inpatient Unit)

Supervisors: John H. Dickey Ph.D. & William Hazle M.D.

Responsibilities:

- Conducted cognitive assessments (screening for attentional problems and dementia)
- Conducted differential diagnosis assessments
- Conducted intake interviews
- Attended interdisciplinary staff meetings and disseminated testing results
- Observed commitment hearings

2003 – 2004

Adult Psychopathology Practicum

Idaho State University Psychology Clinic

Supervisor: Scott Safford, Ph.D.

Responsibilities:

- Assessed adult psychopathology (anxiety, mood, and personality disorders)
- Provided cognitive-behavioral and interpersonal therapy for adult clients

2003 – 2004

Senior Health Mobile

Idaho State University (Servicing several rural communities in southeastern Idaho)

Supervisor: Scott Safford, Ph.D.

Responsibilities:

- Trained in conducting depression, anxiety, and grief assessments
- Presented memory management workshop
- Trained in providing brief cognitive-behavioral treatments for depression and grief

2002 – 2003

Advocacy and Learning Associates Externship

Advocacy and Learning Associates, Pocatello, Idaho

Supervisor: Mark W. Roberts, Ph.D.

Responsibilities:

- Conducted testing to diagnose mental retardation, autism, learning disabilities and ADHD
- Supervised and maintained the organization's behavioral control records and procedures
- Conducted parent-therapist meetings to disseminate test findings and coordinate therapy

2003

General Adult/Substance Abuse Practicum

Idaho State University Psychology Clinic

Supervisor: Tony Cellucci, Ph.D., ABPP

Responsibilities:

- Assessed adults for substance abuse and psychopathology
- Utilized motivational interviewing and cognitive-behavioral therapy to treat substance abuse clients

2003

Academic Testing and Public Safety Employment Testing

Idaho State University Psychology Clinic

Supervisor: Tony Cellucci, Ph.D., ABPP

Responsibilities:

- Conducted, interpreted, made recommendations, and provided feedback following psycho-educational testing
- Conducted pre-employment assessments for ISU's public safety employees

Clinical Workshops

- 2004** Flashman (2004). *Introduction to Neuropsychology*. Workshop presented at Idaho State University for faculty and students.
- 2003** Sammons (2003). *Psychopharmacology: Recent advances, clinical applications, and the role of health care professionals*. Workshop presented at Annual Meeting of the Idaho Psychological Association, Sun Valley, Idaho.
- 2002** Favor (2002). *Psychotherapy with gay, lesbian, and bisexual clients*. Workshop presented at Idaho State University for faculty and students.

Presentations & Publications

- Traugher, D. L. (2010) *Designated Examination Training*. Continuing education presentation for clinical staff of Idaho Department of Health & Welfare Region VI, VII, & SHS Mental Health Programs.
- Traugher, D. L. (2009). *Personality Disorders*. Presentation for Idaho District VI Law enforcement and Bannock County Sheriff's Department's Crisis Intervention Team Training.
- Traugher, D. L. (2009). *The Neuroscience of Trauma*. Continuing education presentation for clinical staff of Idaho Department of Health & Welfare Region VI, VII, and SHS Mental Health Programs.
- Traugher, D. L. (2009). *Intentional Self-injurious Behavior: Understanding the Distressing world of "Cutting"*. Didactic presentation for Idaho School District 25, and surrounding rural districts.
- Traugher, D. L. (2008 & 2010). *Promoting Ongoing Ethical Behavior Through Self-Awareness and Self-Monitoring*. Continuing education presentation for clinical staff of Idaho Department of Health & Welfare Region VI, VII, and SHS Mental Health Programs.

- Traugher, D. L. (2008). *Psychological Disorders: Characteristics of Mental Illness*. Presentation for Idaho District VII Law enforcement and PWCC Crisis Intervention Team Training.
- Traugher, D. L. (2008). *Differentiating Anti-Social Personality Disorder from Psychopathy*. Didactic training for interdisciplinary clinical training for the Region VI Mental Health Team.
- Traugher, D. L. (2008). *Psychopathology in Law-enforcement and Correctional Settings*. In-service for community law-enforcement and correctional officers as part of "Crisis Team Intervention Training."
- Traugher, D.L. (2006). *Suicide Risk Assessment and Awareness in Prison Settings*. In-service for security and correctional staff at the Pocatello Women's Correctional Center.
- Traugher, D. L., Ricks, T. R., & Turley-Ames, K. J. (2004). *Storage and Processing Components of Working Memory: Ability to Predict Paired-Associate Errors*. Paper presented at the 45th Annual Meeting of the Psychonomic Society, St. Paul, Minnesota.
- Gibson, L., Traugher, D., & Safford, S. (2004). *The New APA Guidelines for Psychologists Working with Older Adults*. Idaho Psychological Association Newsletter; Boise, Idaho
- Traugher, D. L. (2004). *Understanding Progressive Dementia: Guidelines for Working with Older Adults with Impairments*. In-service for staff at State Hospital South, Blackfoot, Idaho.
- Turley-Ames, K. J., Thompson, H. M., & Traugher, D. L. (2003). *Working Memory and Strategy Use: Implications for Controlled Processing*. Paper presented at the 15th annual meeting of the American Psychological Society, Atlanta, Georgia.
- Traugher, D. L., & Turley-Ames, K. J. (2002). *Inhibitory Mechanisms Associated with Individual Differences in Working Memory*. Paper presented at the 43rd Annual Meeting of the Psychonomic Society, Kansas City, Missouri.
- Traugher, D. L., & Turley-Ames, K. J. (2001). *Working Memory, Motivation, and Spontaneous Semantic Clustering*. Paper presented at the 13th Annual Meeting of the American Psychological Society, Toronto, Ontario, Canada.

Research Experience

2004 – 2008

Activation and Inhibition as Fundamental Mechanisms Underlying Individual Differences in Working Memory. (Dissertation)
Responsibilities: Project development, data collection, data

analysis, and dissemination

Primary Investigators: Daniel Traughber & Kandi Jo
Turley-Ames, Ph.D. (Supervisor)

2004 – 2006

*Methylphenidate v. Placebo: Differential Improvement on
Attention Testing of Adults with ADHD.*

Responsibilities: Project development, data collection, data
analysis, and dissemination

Primary Investigators: John H. Dickey, Ph.D. (Supervisor)
& Daniel Traughber

2004 – 2010

*Activation and Inhibition Differences of Individuals with Anxiety
and Depression.*

Responsibilities: Project development, data collection, data
analysis, and dissemination

Primary Investigators: Daniel Traughber & Kandi Jo
Turley-Ames Ph.D. (Supervisor)

2004 – 2010

*Differences in Activation and Inhibitory Control for Sub-threshold
Individuals with ADHD.*

Responsibilities: Project development, data collection, data
analysis, and dissemination

Primary Investigators: Daniel Traughber & Kandi Jo
Turley-Ames Ph.D. (Supervisor)

2003 – 2004

*Storage and Processing Components of Working Memory: Ability
to Predict Paired-Associate Errors.*

Responsibilities: Project development, data collection, data
analysis, and dissemination

Primary Investigators: Daniel Traughber, Travis Ricks, &
Kandi Jo Turley-Ames, Ph.D. (Supervisor)

2003

*Working Memory, Metacognitive Awareness, and Reading
Comprehension.*

Responsibilities: Data collection

Primary Investigators: Kandi Jo Turley-Ames Ph.D.
(Supervisor) & Heather Thompson

2003

*Strategy Use, Inhibitory Control, and Working Memory Task
Performance.*

Responsibilities: Project development, data collection, data coding,
data analysis, and dissemination

Primary Investigators: Kandi Jo Turley-Ames Ph.D.
(Supervisor) & Daniel Traughber

2002

911 and Counterfactual Thinking.

Responsibilities: Data collection, and data coding

Primary Investigators: Loren Toussaint Ph.D. & Kandi Jo
Turley-Ames Ph.D. (Supervisor)

2001 – 2002

*Inhibitory Mechanisms Associated with Individual Differences in
Working Memory. (Thesis)*

Responsibilities: Project development, data collection, data
analysis, and dissemination

Primary Investigators: Daniel Traugher & Kandi Jo
Turley-Ames Ph.D. (Supervisor)

2001

*Working Memory, Motivation, and Spontaneous Semantic
Clustering.*

Responsibilities: Project development, data collection, data
analysis, and dissemination

Primary Investigators: Daniel Traugher & Kandi Jo
Turley-Ames Ph.D. (Supervisor)

2000

Working Memory and Reading Comprehension.

Responsibilities: Data collection and data analysis

Primary Investigator: Kandi Jo Turley-Ames Ph.D.
(Supervisor)

1999

Working Memory and Strategy Instruction.

Responsibilities: Data collection

Primary Investigator: Kandi Jo Turley-Ames Ph.D.
(Supervisor)

1998

Alzheimer's Disease Study.

Responsibilities: Data collection

Idaho State Veteran's Home, Pocatello, Idaho
Primary Investigator: Linda Enloe Ph.D. (Supervisor)

2013-11-19

LB
STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
Telephone (208) 236-7280

JANIECE PRICE, ISB #7161
Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR-13-3258-FE
)	
vs.	)	STATE'S FIRST MOTION
	)	IN LIMINE
TODD THOMAS EDMO,)	
)	
Defendant.)	
)	

COMES NOW the State of Idaho, by and through JaNIECE PRICE, Deputy Prosecuting Attorney, in and for the County of Bannock, State of Idaho, and moves the Court for an Order prohibiting the defendant by and through counsel from putting on testimony and/or evidence related to regarding Daniel Traughber, PHD involving medical history, treatment, surgeries and any medical ailments, limitations and/or injuries of the defendant, if any; as well as any medical opinions related to this incident and the defendant.

This evidence is irrelevant as set forth in I.R.E. 401 and I.R.E. 402. In addition, such evidence would cause confusion of the issues, mislead the jury and/or cause undue delay.

DATED this 18th day of November, 2013.


JANIECE PRICE
Deputy Prosecutor

Motion In Limine
1

F

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTOR
P.O. BOX P
POCATELLO, ID 83205-0050
(208) 236-7280

JANIECE PRICE, ISB #7161
Asst. Chief Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

TODD THOMAS EDMO,

Defendant.

CASE NO. CR-2013-3258-FE

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN, TO Court and Defendant that the State of Idaho will call up for hearing, its MOTION IN LIMINE, on Monday, the 2nd day of December, 2013, at the hour of 8:30 a.m., before the Honorable DAVID C. NYE, Sixth District Judge, Courtroom No. 300 at the Bannock County Courthouse in Pocatello, Idaho.

DATED This 18th day of November, 2013.

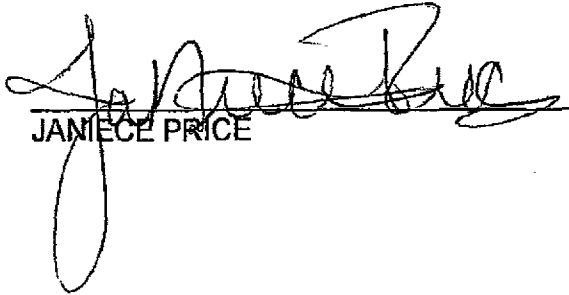

JANIECE PRICE
Asst. Chief Deputy Prosecutor

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 18th day of November, 2013, a true and correct copy of the foregoing Notice of Hearing was delivered to the following:

LINDSEY BLAKE
PUBLIC DEFENDER
BANNOCK COUNTY COURTHOUSE
POCATELLO, ID 83201

☐ mail -
postage prepaid
☒ hand delivery
☐ facsimile


JANIECE PRICE

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT IN AND
FOR THE STATE OF IDAHO, COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

TODD THOMAS EDMO,

Defendant.

Case No:CR-2013-0003258-FE

**ORDER GRANTING
MOTION IN LIMINE**

The State filed a Motion in Limine on November 18, 2013, seeking to exclude the testimony of the Defendant's expert, Daniel Traughber, PhD. That matter was heard by the Court on May 5, 2014, pursuant to notice. JaNeice Price and Jeff Cronin appeared for the State. Lindsey Blake appeared for and with Defendant. The Court heard oral argument and took the matter under advisement. Trial begins on May 6, 2014. Now, this Court issues this decision granting the motion in limine. Dr. Traughber shall not testify.

The State's argument is based upon both a procedural ground and a substantive ground. Procedurally, the State argues that Dr. Traughber was not timely or properly disclosed. ICR 16(c)(4) states that upon written request of the prosecutor the defendant shall provide a written summary or report of any expert testimony. The provided summary must describe the witness's opinions, the facts and data for those opinions and the

Case No. CR-2013-0003258-FE
ORDER GRANTING MOTION IN LIMINE
Page 1 of 4

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witness's qualifications. Additionally, since this is an expert opinion regarding mental health, the disclosure must also comply with I.C. §18-207. On April 23, 2013, the prosecutor made the requisite written request. On May 9, 2013, Defendant provided a response to the State's written request. That response did not include or mention Dr. Traughber in any way. On August 2, 2013, Defendant provided his proposed Witness List. It does name Daniel Traughber, PhD, as a witness but provides no further information. In fact, it does not even identify Dr. Traughber as an expert witness rather than a fact witness. On March 17, 2014, Defendant provided the State a copy of Dr. Traughber's report. This is problematic in that I.C. § 18-207 states that:

(4) No court shall, over the objection of any party, receive the evidence of any expert witness on any issue of mental condition, or permit such evidence to be placed before a jury, unless such evidence is fully subject to the adversarial process in at least the following particulars:

(a) Notice must be given at least ninety (90) days in advance of trial, or such other period as justice may require, that a party intends to raise any issue of mental condition and to call expert witnesses concerning such issue, failing which such witness shall not be permitted to testify until such time as the opposing party has a complete opportunity to consider the substance of such testimony and prepare for rebuttal through such opposing expert(s) as the party may choose.

(b) A party who expects to call an expert witness to testify on an issue of mental condition must, on a schedule to be set by the court, furnish to the opposing party a written synopsis of the findings of such expert, or a copy of a written report. The court may authorize the taking of depositions to inquire further into the substance of such reports or synopses.

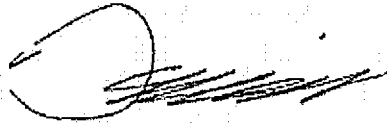
Defendant did not comply with this statute in a timely manner. The Court understands that several continuances were granted due to the health of Mr. Traughber and his inability to complete his report; however, a written synopsis could and should have been provided in a timely manner.

The Court has carefully reviewed the expert report of Dr. Traughber. Mental illness is not a defense to a crime. This is a case that requires proof of a battery under I.C. § 18-903(a). It does not involve I.C. § 18-903 (b) or (c). This is important because the required mental state differs under subsection (a) from that required under (b) or (c). The required intent under the charged subsection is a general intent rather than a specific intent.¹ Dr. Traughber's opinion does not state that Defendant cannot form the general intent required to purposely use force of violence upon another. Instead, he simply opines that Defendant has a traumatic brain injury from an incident 11 years ago that has resulted in impaired cognitive and motor abilities that may cause him to experience high levels of impulsivity and poorly controlled behavior. The Court is mindful that defense counsel represented at the hearing that Dr. Traughber will testify that Defendant's traumatic brain injury combined with alcohol he ingested that night caused him to essentially "black out" or act unconsciously. However, that testimony is not in the expert report and cannot be given at trial because it was not timely or appropriately disclosed. Nothing that has been disclosed as being Dr. Traughber's expert opinion is relevant to the issue of whether Defendant had the ability to form the required general intent.

The expert report is not timely and does not show any relevant evidence that can be testified to by Dr. Traughber. He will not be allowed to testify.

¹ *State v. Carlson*, 134 Idaho 389, 3 P.3d 67 (Ct. App. 2000); *State v. Billings*, 137 Idaho 827, 54 P.3d 470 (Ct. App. 2004).

DATED this 5th day of May, 2014.



DAVID C. NYE
District Judge

CERTIFICATE OF SERVICE

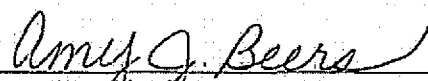
I HEREBY CERTIFY that on the 5th day of May, 2014, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

- ☐ U.S. Mail
- ☒ E-Mail
- ☐ Courthouse Box
- ☐ Fax: 236-7288

Lindsey Blake
Office of the Public Defender

- ☐ U.S. Mail
- ☒ E-Mail
- ☐ Courthouse Box
- ☐ Fax:



Deputy Clerk

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 AUG 15 PM 4:15
BY KIL
DEPUTY CLERK

the public from having access to the photographs due to the sensitive and personal nature of the photos and the risk of embarrassment. The photos are to be sealed except as ordered by the courts or in connection with legal proceedings, such as post trial motions and appeals.

A copy of the Fourth Affidavit, etc. is attached and included herein, but without the photographs.

The purpose is to preserve the court and trial record for all judicial and appellate proceedings.

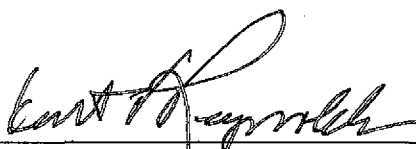
Defendant further moves the Court for its order striking, crossing out or blacking out from the first page of the Second and Third Affidavits the name of "Kent Reynolds" as it was inadvertently included.

Alternatively Defendant to be allowed to substitute the first page, removing "Kent Reynolds" and have it deemed filed as of August 13, 2014, without the necessity of reproducing all of the attachments to the two affidavits. Proposed replacement page is attached with copies.

No prejudice will occur to the State.

Oral argument is requested.

DATED this 15 day of August, 2014.



KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

MOTION RE: FOURTH AFFIDAVIT OF KENT V. REYNOLDS IN SUPPORT OF MOTION TO SET ASIDE VERDICT AND MOTION FOR NEW TRIAL etc.


Page 2

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15 day of August, 2014, I served a true and correct copy of the **MOTION RE: FOURTH AFFIDAVIT OF KENT V. REYNOLDS IN SUPPORT OF MOTION TO SET ASIDE VERDICT . . . RE: PHOTOS; AND MOTION TO STRIKE KENT REYNOLDS FROM THE TITLE OF THE SECOND AND THIRD AFFIDAVITS OR TO SUBSTITUTE THE TITLE PAGE AND HAVE IT DEEMED FILED ON AUGUST 13, 2014** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Deputy Public Defender

MOTION RE: FOURTH AFFIDAVIT OF KENT V. REYNOLDS IN SUPPORT OF MOTION TO SET ASIDE VERDICT AND MOTION FOR NEW TRIAL etc.

Page 3

Randall D. Schulthies
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

COPY

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

v.

AMAN GAS,

Defendant,

) **CASE NO. CR-2013-864-FE-A**
)
) **FOURTH AFFIDAVIT OF**
) **KENT V. REYNOLDS IN SUPPORT**
) **OF MOTION TO SET ASIDE**
) **VERDICT AND MOTION FOR**
) **NEW TRIAL; AMENDED MOTION**
) **TO SET ASIDE VERDICT;**
) **AMENDED MOTION FOR NEW**
) **TRIAL; MOTION TO**
) **DISQUALIFY AND AMENDED**
) **MOTION TO DISQUALIFY**
)

STATE OF IDAHO }

:ss

COUNTY OF BANNOCK }

KENT V. REYNOLDS, having been sworn upon his oath, deposes and says that:

1. That I am an attorney of record for the Defendant Aman Gas, and make this affidavit of my personal knowledge and belief.

**Fourth Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict and Motion for New Trial;
Amended Motion to Set Aside Verdict; Amended Motion for New Trial; Motion to Disqualify and Amended
Motion to Disqualify**

Page 1

2. Attached hereto and incorporated herein by reference are the following materials:

A portion of the photographs produced by the State in its Sixth Response to Discovery Motion, Supplemental. There were eleven photographs produced by the State in its response to the request. They were produced in a manilla envelope. Prior to trial, Defendant moved to exclude the photos. *See* Second Motion in Limine.

3. On May 14, 2014, the Court heard argument on Defendant's Second and Third Motions in Limine. The court took the motion under advisement until it could review the photographs. The manilla envelope was submitted to the court and I wrote on the envelope "Judge Dunn Aman Gas."

4. Prior to and during trial, Defendant objected to the introduction of the photos. The court overruled the objection and several of the photos were admitted into evidence. Exhibits 5 and 6 were admitted post ruling, and photos 14, 15 and 16, were admitted during Ann Wilcox's testimony. The balance of the photographs were returned to Defendant in the manilla envelope. The manilla envelope and the remaining photographs are produced in support of Defendant's motions and to preserve the record.

DATED this ____ day of August, 2014.

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

SUBSCRIBED AND SWORN before me this ____ day of August, 2014.

NOTARY PUBLIC FOR IDAHO

Residing at Pocatello

My Commission Expires:

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ____ day of August, 2014, I served a true and correct copy of the **FOURTH AFFIDAVIT OF KENT V. REYNOLDS IN SUPPORT OF MOTION TO SET ASIDE VERDICT AND MOTION FOR NEW TRIAL; AMENDED MOTION TO SET ASIDE VERDICT; AMENDED MOTION FOR NEW TRIAL; MOTION TO DISQUALIFY AND AMENDED MOTION TO DISQUALIFY** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☐ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile

KENT V. REYNOLDS
Deputy Public Defender

**Fourth Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict and Motion for New Trial;
Amended Motion to Set Aside Verdict; Amended Motion for New Trial; Motion to Disqualify and Amended
Motion to Disqualify**

Page 3

Randall D. Schulthies
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 AUG 15 PM 4:18

BY KV
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff,

v.

AMAN GAS,

Defendant,

) **CASE NO. CR-2013-864-FE-A**

)

) **AFFIDAVIT OF**

) **KENT V. REYNOLDS RE:**

) **SUPPRESSION HEARING**

) **RECORDING**

)

)

)

)

)

)

)

STATE OF IDAHO }

:ss

COUNTY OF BANNOCK }

KENT V. REYNOLDS, having been sworn upon his oath, deposes and says that:

1. That I am an attorney of record for the Defendant Aman Gas, and make this affidavit of my personal knowledge and belief.

2. Attached hereto and incorporated herein by reference is a copy of the recording of the Motion to Suppress Hearing.

DATED this 15 day of August, 2014.



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

SUBSCRIBED AND SWORN before me this ____ day of August, 2014.

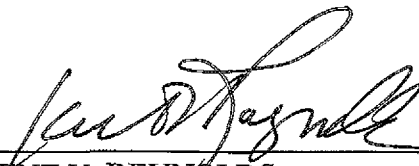
NOTARY PUBLIC FOR IDAHO
Residing at Pocatello
My Commission Expires:

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15 day of August, 2014, I served a true and correct copy of the **AFFIDAVIT OF KENT V. REYNOLDS RE: SUPPRESSION HEARING RECORDING** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

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KENT V. REYNOLDS
Deputy Public Defender

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 AUG 27 PM 1:43

COURT MINUTES

CR-2013-0000864-FE

State of Idaho vs. Aman F Gas

BY DEPUTY CLERK

Hearing type: Motion

Hearing date: 8/25/2014

Time: 11:20 am

Judge: Stephen S Dunn

Courtroom: Room #301, Third Floor

Court reporter: Sheri Nothelphim

Minutes Clerk: Karla Holm

Tape Number:

Defense Attorney: Kent Reynolds

Prosecutor: Zachary Parris

-
- 1121 Motion; Motion 4th Affidavit
- 1122 Reynolds regarding photos
- 1124 State no objection; Court all 11 photos; additional 6 photos not allowed at trial will be in sealed envelope and added to file; 2 envelopes 1 admitted and 1 not admitted;

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 AUG 27 PM 1:42
BY KLL
DEPUTY CLERK

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN GAS,

Defendant.

MINUTE ENTRY & ORDER

On August 25, 2014, the above named Defendant appeared in Court with his counsel, Kent V. Reynolds, for a hearing on Defendant's Motions. Zachary Parris, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheri Nothelphim performed as Court Reporter for this proceeding.

The Court heard argument from counsel for the Defendant regarding the Defendant's Motion Re; Fourth Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict...Re; Photos; and Motion to Strike Kent Reynolds from the Title of the Second and Third Affidavits or to Substitute the Title Page and Have it Deemed Filed on August 13, 2014.

The Court granted the Motion as to striking Kent V. Reynolds from the Title of the Second and Third Affidavits.

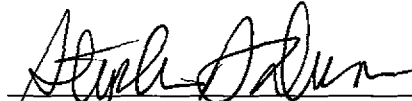
The State had no objection as to the portion of the Motion dealing with the photographs. The Court advised that the six photographs, not allowed at trial, would be placed into a sealed envelope and added to the file. Therefore, the file will contain two envelopes, one containing

Register CR-2013-00864-FE
MINUTE ENTRY & ORDER

Page 1

photos admitted at trial and one containing photos not allowed at the trial.

DATED August 27, 2014.


STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 27 day of August, 2014, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

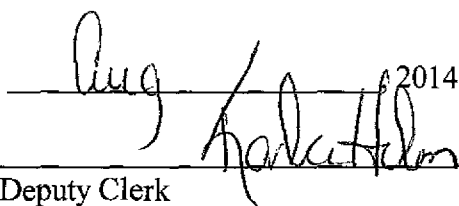
Bannock County Prosecutor

() U.S. Mail
(X) Email
() Hand Deliver
() Facsimile

Kent V. Reynolds
Bannock County Public Defender

() U.S. Mail
(X) Email
() Hand Deliver
() Facsimile

DATED this 27 day of Aug, 2014.


Deputy Clerk

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
(208) 236-7280

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 AUG 27 PM 4:12
BY KH
DEPUTY CLERK

JANIECE PRICE, ISB #7161
Assistant Chief Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

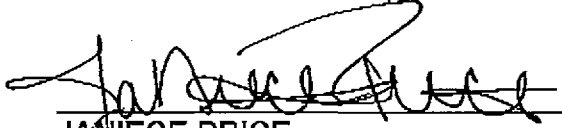
AMAN GAS,

Defendant.

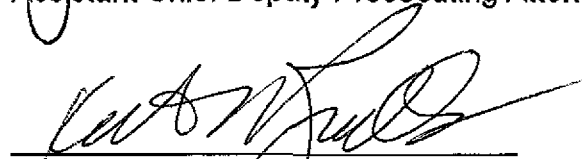
Case No. CR-2013-864-FE -A

STIPULATION TO EXTEND
STATE'S RESPONSE
BRIEF DEADLINE

COMES NOW, the State of Idaho, by and through JANIECE PRICE,
Assistant Chief Deputy Prosecuting Attorney for Bannock County, Idaho, and KENT V.
REYNOLDS, Attorney for the Defendant, and hereby stipulate and agree to extend the
deadline for State's Response Brief to be due on September 11, 2014.


JANIECE PRICE
Assistant Chief Deputy Prosecuting Attorney

DATED this 26th day of August, 2014


KENT V. REYNOLDS
Attorney for the Defendant

DATED this 27 day of August, 2014

FILED
BANNOCK COUNTY
DISTRICT OF ONE

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF IDAHO

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN GAS,

Defendant.

BY KL
DEPUTY CLERK

Case No. CR-2013-864-FE-A

ORDER TO EXTEND
STATE'S RESPONSE BRIEF
DEADLINE

On Stipulation of JANIECE PRICE, Assistant Chief Deputy Prosecuting Attorney for Bannock County, KENT V. REYNOLDS, Attorney for the Defendant, and good cause appearing therefore;

IT IS HEREBY ORDERED that the State's Response Brief deadline is extended to September 11, 2014.

DATED this 28th day of August, 2014.

Stephen S. Dunn
STEPHEN S. DUNN
District Judge

Cc: JaNiece Price
Kent V. Reynolds

STEPHEN F. HERZOG
Bannock County Prosecutor
P.O. Box P
Pocatello, ID 83205
Phone No.: (208) 236-7280
Fax No.: (208) 236-7288

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 SEP 11 PM 2:13

BY KH
DEPUTY CLERK

ORIGINAL
ORIGINAL

JaNiece Price, ISB #7161
Asst. Chief Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)

Plaintiff,)

vs.)

AMAN FARAH GAS,)

Defendant.)

CASE NO. CR-2013-00864-FE-A

PLAINTIFF'S RESPONSE BRIEF RE:
DEFENDANT'S MOTION TO SET
ASIDE VERDICT AND MOTION FOR NEW
TRIAL; AND MOTION FOR DIS-
QUALIFICATION

COMES NOW the Plaintiff, State of Idaho, by and through its attorney, JaNiece Price, Assistant Chief Deputy, and submits this brief in response to the Defendant's Motions to Set Aside the Verdict and for a New Trial and the Motion for Disqualification.

PROCEDURAL HISTORY

Aman Farah Gas, Defendant (hereinafter referred to as Defendant), was charged with the crime of Rape in a complaint filed on January 22, 2013. The Complaint alleged that Defendant Aman Gas committed the criminal act of anal rape on Raushelle M. Goodin Guzman on January 20th, 2013 by penetrating the anal opening of Raushelle M. Goodin Guzman with his penis while she was unconscious and/or unaware of the

nature of the act and this was known by the Defendant. The procedural history of the case proceeded as follows:

February 5, 2013 - A contested Preliminary Hearing was held before Magistrate Judge David Kress with the matter being bound over to district court;

February 11, 2013 - Defendant was arraigned before District Judge Stephen Dunn at which time the Defendant pled not guilty and the case was set for a pre-trial conference on May 5, 2013 and a trial on May 21, 2013 at the request of defense counsel;

May 5, 2013 - *First* Pre-Trial Conference - The State asked to continue the matter due to the lab results not being completed. Defendant wouldn't stipulate to a continuance so the State filed a Motion to Continue for Good Cause and scheduled the motion for hearing;

May 13, 2013 - State's Motion to Continue Trial was heard and the motion was granted. The matter was recalendared with a pre-trial date of June 3, 2013 and a trial date of June 18, 2013. At this hearing the Defendant stated he would be filing a motion for reduction in bond;

May 20, 2013 - Defendant's Motion to Reduce Bond - the hearing was continued on the basis that Defense counsel had not filed the motion;

June 3, 2013 - Defendant's Motion to Reduce Bond - motion was denied.

June 3, 2013 - *Second* Pre-Trial conference - the matter was continued even though the labs had been received by the State and provided to the Defendant. The case was recalendared with a pre-trial conference date of July 1, 2013 and a trial date of July 16, 2013;

June 17, 2013 – Defendant's Motion for DNA testing – moot and withdrawn by Defendant since State had already sent off the DNA in question;

July 1, 2013 – *Third* Pre-trial Conference – a Motion to Continue would be filed by the State because lab results on a consensual partner are pending at the State Lab and the Defendant wouldn't agree to a continuance;

July 8, 2013 – State's Motion to Continue Trial – the motion was granted and new pre-trial and trial dates of August 5, 2013 and August 20, 2013 were respectively scheduled;

August 5, 2013 – *Fourth* Pre-Trial conference – the lab results on consensual partner are not yet completed by the lab and State would be filing a Motion to Continue to be heard on August 12, 2013 due to the Defendant not agreeing to a continuance;

August 12, 2013 – the State's Motion to Continue on the basis of consensual partner lab results not being received was granted. Dates of September 3, 2013 and September 17, 2013 were calendared for the *Fifth* pre-trial conference and trial;

September 3, 2013 – *Fifth* Pre-Trial Conference – Defendant asked to continue the trial in order to obtain an expert witness. The State agreed to a continuance. The next hearing date was set for September 9, 2013 to hear the Defendant's Motion for an Expert;

September 9, 2013 – the Defendant's Motion for an Expert Witness wasn't filed with the court as of this date. The Court instructed the State if it was going to object to the Defendant's Motion for an Expert then the State would need to file an objection once the motion was filed. It was also noted that the Defendant may fire his attorney, Kent Reynolds. Trial was set for November 19, 2013 with a *Sixth* pre-trial conference on 11/4/2013;

September 16 2013 – Hearing on the Defendant's Motion for an Expert Witness – the Court requested that the Defendant let the Court know what the cost for an expert witness would be before it would approve an expert and would take the matter under advisement. The court noted that if an expert was approved it would be done outside the presence of the State and the Defendant would need to submit the information to the Court under seal and the Court would deem that information work product.

Additionally, it was mentioned to the Court there may be potential new counsel hired by the Defendant per a call from Africa to Defendant's counsel;

November 4, 2013 – *Sixth* Pre-Trial Conference – Trial was continued by the Defendant so that Defendant can get Expert Witness information. The matter was reset on the calendar for a *Seventh* pre-trial conference on January 6, 2014 with a trial for January 21, 2014;

January 6, 2014 – *Seventh* Pre-Trial conference – Trial was again continued at Defendant's request. The Court advised the parties that no more continuances would be granted and rescheduled trial for March 18, 2014 and an *Eighth* pre-trial conference on 3/3/2014;

March 3, 2014 – *Eighth* Pre-Trial conference – Trial was again continued at Defendant's request over the State's objection. Defendant's counsel stated he had new witnesses and wanted to schedule a Motion to Suppress hearing. The matter was scheduled for trial on May 20, 2014 and the *Ninth* pre-trial conference was scheduled for May 5, 2014;

April 9, 2014 – the State's Objection to the Defendant's Motion to Suppress on the grounds that it was filed untimely. The Court denied the State's objection on the bases that the Court's Pre-Trial Order allows the timeframes of the Idaho Criminal Rules to be

modified and in order to avoid any Post Conviction issues being raised later for ineffective assistance of counsel by the Defendant;

April 9, 2014 – the Defendant's Motion to Suppress Hearing was held and taken under advisement by the Court;

April 28, 2014 – the State's Motion to Quash Defendant's Subpoena and the Defendant's Motion to Compel – It was decided that the Defendant would contact State's counsel to narrow down the discovery request on the telephone records. Also the Court granted the Defendant's Motion to Compel and ordered that the SANE photographs be disclosed to Defendant's counsel and must be kept in Defense counsel's file and not provided to the Defendant;

May 12, 2014 – Defendant's Motions in Limine were heard.

1st Motion – Denied by the Court

2nd Motion – to not allow the introduction of SANE examination photographs. The Court denied the motion but ordered that the SANE photographs are to be reviewed outside the presence of the jury. Court ordered the State to lay foundation for the photographs outside the presence of the jury.

3rd Motion – to be allowed to put on evidence of the victim's participation in anal sex - not heard by the Court at this time

May 19, 2014 – Defendant's Motions and State's Motions were heard.

Defendant's Motion to Disqualify the Judge – Denied

Defendant's Motion in Limine on Chain of Custody of evidence– Denied

Defendant's Motion to Compel – Denied

State's First Motion in Limine - Under Advisement but it depends on the

evidence

State's Second Motion in Limine – Under advisement

May 19, 2014 – May 22, 2014 – Trial

May 22, 2014 - Verdict – Guilty of Battery with Intent to Commit a Serious Felony –
Rape

July 14, 2014 - Sentencing - continued to allow Defendant to file Motions to Set Aside
Verdict, Motion for New Trial and Motion to Disqualify

Discovery timeline

Additionally, the following timeline of Discovery Responses and Requests were
conducted in the case:

January 31, 2013 – Defendant's Discovery Motion

February 13, 2013 – State's Discovery Request

February 13, 2013 – State's Response to Request for Discovery

March 4, 2013 – Defendant's Second Discovery Motion

March 11, 2013 – State's Response to Second Discovery Motion

June 14, 2013 – State's First Supplemental Response to Request for Discovery

September 9, 2013 – State's Second Supplemental Response to Request for Discovery

September 20, 2013 – Defendant's Second Discovery Motion

September 23, 2013 – Defendant's Third Discovery Motion

September 25, 2013 – State's Second Response to Second Discovery Motion

October 30, 2013 – State's Response to Third Discovery Motion

February 20, 2014 – Defendant's Fourth Discovery Motion

February 21, 2014 – Defendant's Response to State's Discovery Motion

February 21, 2014 – Defendant's Second Response to State's Discovery Motion

March 3, 2014 – Defendant's Fifth Discovery Motion

March 21, 2014 – Defendant's Sixth Discovery Motion

March 31, 2014 – State's Response to Fifth Discovery Motion

April 10, 2014 – State's Response to Fourth Discovery Motion

April 14, 2014 – State's Response to Sixth Discovery Motion

April 16, 2014 – State's Third Supplemental Response to Discovery Motion

April 16, 2014 – Defendant's Third Response to Discovery Motion

April 24, 2014 – Defendant's Fourth Response to Discovery Motion

May 1, 2014 – Defendant's Seventh Discovery Motion

May 1, 2014 – Defendant's Eighth Discovery Motion

May 5, 2014 – Defendant's Sixth Response to Discovery Motion

May 5, 2014 – Defendant's Fifth Response to Discovery Motion

May 6, 2014 – Defendant's Ninth Discovery Motion

May 6, 2014 – State's Supplemental Response to Sixth Discovery Motion

May 7, 2014 – Defendant's Seventh Response to Discovery Motion

May 8, 2014 – Defendant's Eighth Response to Discovery Motion

May 9, 2014 – State's Response to Eighth Discovery Motion

May 9, 2014 – State's Response to Ninth Discovery Motion

May 9, 2014 – Defendant's Ninth Response to Discovery Motion

May 9, 2014 – Defendant's Tenth Response to Discovery Motion

May 14, 2014 – State's Response to Seventh Discovery Motion

May 15, 2014 – Defendant's Eleventh Response to Discovery Motion

May 15, 2014 – Defendant's Amended Twelfth Response to Discovery Motion

DEFENDANT'S MOTION TO SET ASIDE THE VERDICT AND MOTION FOR A NEW TRIAL SHOULD BE DENIED

Defendant motions this honorable Court to set aside the verdict and order a new trial as provided for under I.C.R. 34. The State objects to these motions and requests the Court deny them.

As provided "[t]he court on motion of a defendant may grant a new trial to the defendant if required in the interest of justice. A trial court has wide discretion to grant or refuse to grant a new trial, and, on appeal, the appellate court will not disturb that exercise of discretion, absent a showing of manifest abuse. *State v. Goggin*, 2014 WL 4160019 (S.Ct. 2014).

Defendant by and through his counsel raises numerous reasons as to why the verdict should be set aside and a new trial ordered. These reasons are covered in the Defendant's Brief categorized as Items A through K, which include challenges that the court was biased and unfair during the jury selection and voir dire process and that that unfairness extended to rulings made by the court before and during trial as to admissibility or inadmissibility of testimony and evidence to the extent that the Defendant argues the trial in and of itself was unfairly prejudicial and that the jury was incorrect in its verdict of finding the Defendant guilty of Battery with Intent to Commit a Serious Felony, Rape.

The State contends the Defendant was not unfairly prejudiced nor treated with unfairness by the Court during the four day jury trial. In fact, the trial

process was fairly administered by the Court and any contentions by Defendant by and through counsel or otherwise are unsubstantiated. As argument therefore the State submits the following:

PART I: EVIDENTIARY ISSUES

The Court did not err in denying the Defendant's Motion to Exclude the hospital photographs obtained during the Sexual Assault Exam. (Defendant's Brief Item A)

The following factors are considered in determining whether the district court abused its discretion, did the court (1) perceive the issue as one of discretion; (2) act within the bounds of that discretion and consistent with established legal standards; and (3) reach its decision through the exercise of reason. *State v. Thorngren*, 149 Idaho 729, 240 P.3d 575 (S.Ct. 2010). The defendant has the burden of affirmatively demonstrating error in a trial court's rulings.

Idaho Rules of Evidence Article IV. Relevancy and Its Limits addresses evidence and whether or not it is relevant and admissible. *I.R.E. 401* provides that "Relevant Evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.' *I.R.E. 402* limits the admissibility of evidence if it is determined that under these rules or other court rules such evidence would be inadmissible. Furthermore, *I.R.E. 403* provides that "[a]lthough relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence."

It is by these rules and a review of the trial proceedings that the Court in this case is able to determine whether or not the evidence, here the SANE photographs, are

admissible or not based upon the relevance of those photographs and whether or not the introduction of these items would be overly prejudicial or irrelevant during trial to the detriment of the Defendant.

At a hearing on May 12, 2014, the Court heard the Defendant's Second Motion in Limine which addressed the concerns the Defendant had with the admission of the SANE photographs. The Court at that hearing stated the photographs would be admissible at that time but requested that prior to the introduction of the photographs to the witness the photographs be reviewed outside the presence of the jury. In addition, the Court ordered the State that prior to introducing the photographs during trial, the State would need to lay foundation for those photographs outside the presence of the jury. The SANE photographs were submitted to the court at an informal meeting prior to trial, the Court advised it would only allow a limited number of the SANE photographs to be presented as evidence at trial and possibly admitted if the State laid sufficient foundation.

During trial, while SANE Nurse Ann Wilcox was testifying to her medical treatment of the victim, Raushelle M. Goodin Guzman, she testified that part of the process during a sexual assault exam is to photograph the areas of assault before and after application of a dye. At that time, through proper foundation, the State was able to admit the limited number of photographs that the Court had previously advised may be admissible. The photographs were relevant and admissible to aid the jury in arriving at a fair understanding of the evidence and the extent of the victim's injuries. Upon nearing the completion of the direct examination of Nurse Wilcox, the Court had both counsel approach the bench and advised that based upon the testimony presented by Nurse

Wilcox that the Court would allow the admission of additional photographs. At that time, the State through proper foundation admitted the additional photographs through witness SANE Nurse Wilcox.

Defendant's contention that the Court erred in admitting the SANE (hospital) photographs is invalid. The Defendant's due process rights were not violated and he was not unfairly prejudiced by their admission. The photographs were relevant and admissible as evidence to corroborate the victim's testimony of being anally raped. *State v. Peite*, 122 Idaho 809, 839 P.2d 1223 (Ct. App.1992).

Case law provides that "pretrial evidentiary rulings are subject to the discretion of the court and may be changed" when the court determines proper foundation and purpose has been laid for the admission of that evidence. *State v. Thorngren*, 149 Idaho 729, 240 P.3d 575 (S.Ct. 2010). As found in *State v. Pizzuto*, "photographs of murder victims and wounds inflicted on victims, although gruesome, were relevant and admissible as aid to jury in arriving at fair understanding of evidence, extent of victim's injuries, condition of bodies, and bearing on question of degree and atrociousness of crimes." 119 Idaho 742, 810 P.2d 680 (S.Ct.1991).

Similar here as in *Pizzuto*, this Court did not err in allowing the admission of the SANE photographs of the sexual assault examination of the victim, Raushelle M. Goodin Guzman and utilized its discretion in determining proper foundation and purpose had been laid by the State for admission of the photographs.

The Court did not create a biased jury pool through any error during the jury selection process. (Defendant's Brief Item B)

Defendant contends the Court created a biased jury pool by its inclusion or exclusion of a number of jurors who when questioned in chambers and in the jury pool about sensitive issues stated that those issues could affect their ability to be fair and impartial in this trial.

It is the State's position that the Court did not create a biased jury pool. In fact the opposite is true. The Court was thorough in its dealing with jurors and any potential bias that could occur based upon a juror's sensitivity or propensity for siding with the victim and/or the defendant. The Court and counsel for both parties had opportunities to address any concerns either had with any jurors who indicated that they may not be able to be fair and objective. Each side was given unlimited for cause challenges and was not prevented from utilizing them.

State v. Johnson states "[t]he determination of whether a juror can render a fair and impartial verdict rests in the sound discretion of the trial court." 145 Idaho 970, 188 P.3d 912 (S. Ct. 2008). Additionally, "a trial court does not abuse its discretion by refusing to excuse a juror for cause where the juror's answers during voir dire initially gave rise to a challenge for cause, but the juror's later responses assured the trial court that the juror would be able to remain fair and impartial." *State v. Ornelas*, 156 Idaho 727, 330 P.3d 1085 (Ct. App. 2014); *U.S.C.A. Const.Amends. 5, 6, 14; Const. Art. 1, §§ 7, 13; West's I.C.A. §§ 19-1902, 19-2019; Criminal Rule 24(b)*.

Here it can be determined that the trial court's failure, if any, to remove jurors from jury pool after jurors expressed that s/he might have difficulty in serving on this case if selected but agreed that s/he would do their best to be fair and impartial did not constitute error. The judge and counsel for both parties were able to ask follow-up

questions to jurors and flesh out any bias or prejudices that may have been factors to trying to seat a fair and impartial jury panel; and as such the Defendant has failed to demonstrate any prejudice or bias by the judge that created any errors.

Batson Challenge (Defendant's Brief Item C)

Defendant raises the issue that the State engaged in an overt usage of preemptory challenges based on gender to exclude males from the jury panel and as such this resulted in a panel of females who would be more favorable to the victim, Raushelle M. Goodin Guzman, a female, than to the Defendant. The Defendants assertion of this violation of the due process rights of the Defendant by the State is wrong.

When a Batson issue is raised in a trial and is related to a challenge based on gender there is a three step process to analyze this challenge. "These three steps are: (1) that the defendant must make a prima facie showing that a peremptory strike has been exercised on the basis of gender; (2) if that showing has been made, the State must offer a gender-neutral basis for striking the juror in question; and (3) then in light of the submissions, the trial court must determine whether the defendant has shown purposeful discrimination." *Id at Ornelas; U.S.C.A. Const.Amend. 14*. "As a matter of first impression, if the State proffers both permissible and impermissible reasons for its peremptory strikes, a court must determine whether any strike was motivated in substantial part by race or gender." *Id*.

In Gas the Court can determine the State did not intentionally utilize its preemptory challenges in a gender biased way. As argued at the time the Batson challenge was raised by the Defendant after the completion of the jury panel selection,

the State utilized its preemptory challenges for permissible reasons ranging from prior criminal history concerns to that of hearing jurors concerns about not being able to sit on this type of a case or that a juror wouldn't be able to be fair and impartial in serving on the jury and would favor one party more than another. Furthermore, in looking at the pool of jurors which consisted of sixty-five jurors (65), forty-three (43) of those jurors were females leaving twenty-two males in the jury pool. In addition, in the first thirty-two (32) jurors seated, twenty-two (22) of those jurors were female. In looking at these numbers and how the jurors were seated in the jury pool and applying the argument of the State at the time of the challenge during trial that it had not engaged in intentional gender motivated preemptory challenges, it can be determined that the State did not violate the Defendant's due process rights nor commit a Batson error. The final jury panel seated consisted of 8 females and 5 males; and during deliberations 7 females and 5 males.

The Court appropriately allowed the testimony of the DNA Lab Scientists Rylene Nowlin and Jamie Femreite and SANE nurses Ann Wilcox and Gina Sterner, and did not abuse its discretion. (Defendant's Brief Items D & H & I & J)

The Court appropriately allowed the testimony of the State's witnesses from the Idaho State Police Lab, Forensic Scientists Jamie Femreite and Rylene Nowlin and the testimony of SANE nurses Ann Wilcox and Gina Sterner as to their expertise and testing of DNA in this matter and did not abuse its discretion in allowing this evidence at trial. As well as.

Defendant claims that due to the State's inadvertent error of not listing these individuals as expert witnesses on its discovery responses but listing them only as witnesses that the Defendant has been prejudiced and was denied the opportunity to

respond to these witnesses' testimony or expert testimony or otherwise be prepared for their testimony.

Defendant's claims that the State did not comply with the I.C.R. 16(b)(6) and (7) are not correct or persuasive in showing that the Defendant was prejudiced.

Where a late-disclosed witness or non-designated witness has been allowed to testify despite the defendant's objection to the untimely disclosure, a court will not reverse the decision in the absence of a showing that the delayed or non-designation disclosure prejudiced the defendant's preparation or presentation of his defense. *State v. Allen*, 145 Idaho 183, 177 P.3d 397 (Ct. App. 2008).

As argued at the time of trial and admitted to by the State, the State's discovery requests did not clearly designate Lab Scientists Rylene Nowlin and Jamie Femreite or SANE nurses Ann Wilcox or Gina Sterner as expert witnesses but did disclose them as witnesses. Additionally upon receipt of lab results and medical records as well as in responding to additional discovery requests from the Defendant, the State provided to the Defendant in discovery responses voluminous pages, well over 100 pages and discs that included lab reports, analysis reports, and comparison of allele charts, medical records and notes of these witnesses. Various documents related to the Lab Scientists and SANE nurses were provided to Defendant's counsel and Defendant throughout the filing of the case and towards the end near trial, including but not limited to lab reports in June 2013 as well as into October of 2013 and into 2014 as these documents and evidence were received by the State. The only item not provided until the trial to Defense Counsel was a copy of the Curriculum Vitae's of these witnesses. Immediately, upon receipt of these Curriculum Vitae's by the State, they were provided

to the Defendant and his attorney, who had sufficient time and were given time to review those documents.

For the Defendant to claim that the inadvertence of the State not designating these individuals as experts impaired his ability to prepare for the trial and in obtaining experts himself is improper. Defendant had information before him at least 7 to 12 months prior to the trial that Rylene Nowlin, Jamie Femreite, Ann Wilcox and Gina Sterner would be testifying and what they would be testifying about. In fact, as argued at the time of trial with regards to the lab scientists Nowlin and Femreite, it is noted in one of the scientist's notes contained in the State's disclosures to the Defendant that Defendant's counsel had had a telephonic conversation about the lab reports and results with one of the Lab Scientists in June of 2013. Additionally, for Defendant to claim that he didn't know or have reason to know that he would need an expert, a review of the procedural history of the case shows that over a period of three months the case was continued on the basis that Defendant was working on obtaining expert witnesses and in fact even filed a motion with the court asking for monies for an expert.

Defendant's attempts to claim that he did not have notice of the opinions nor proposed testimony of the Lab Scientists Jamie Femreite and Rylene Nowlin and SANE nurses Ann Wilcox and Gina Sterner would be presenting at trial are not substantiated by the record and are not valid. Defendant had been provided over a hundred pages of the opinions and information that these scientists and nurses would be proffering opinions on or testifying to well over 7 months prior to trial. He had received all of this information in the State's various discovery responses as well as had contacted the lab scientists himself with questions. For the Defendant and his counsel to claim that the

Defendant did not know nor did he prepare for such testimony because of not having any notice is not true. Defendant's claim of no knowledge is invalid since he had received, was aware, and knew, and had received the reports, notes, lab charts, medical records, and tests over 7 months before trial. In fact, even at trial when questioning the lab scientists the Defendant had the opportunity to question about testing techniques, the training and experience of the scientists as well as their opinions and knowledge of DNA and the possibility of it being transferred. Defendant was not prejudiced nor hindered in his preparation for trial by the State not disclosing the information to him when in fact it had.

With reference to SANE nurses, Ann Wilcox and Gina Sterner the State had provided appropriate notice to Defendant and his counsel that these individuals would be testifying to their medical treatment of the victim, Raushelle M. Goodin Guzman and that of the Defendant Aman Farah Gas. These two medical treatment providers had been disclosed in discovery as well as any records that they had had involvement in creating. Additionally, Defendant had cross examined Ann Wilcox at the Preliminary Hearing and knew of her medical treatment to the victim. For Defendant to claim he did not have notice of these two individuals and their involvement in this matter is an effort by the Defendant to misrepresent the procedural history of this case and to minimize his efforts for preparation in this case. These individuals and the associated documentation related to them had been disclosed and provided to Defense counsel many months prior to trial. Defendant knew of and about the potential of these two SANE nurses to be called as witnesses and had a summation of what testimony would be presented by them.

In light of these various factors and the information before the Court, this Court did not abuse its discretion and was in fact correct in allowing the Lab Scientists and SANE nurses to testify. As determined by the Court and as should be affirmed, the Defendant did not indicate nor present how this clerical error of non-designation or his claimed no notice of anticipated testimony of these witnesses by the State affected his trial preparation and/or how the error substantially impaired in his ability to prepare his case. *State v. Araiza*, 124 Idaho 82 (S. Ct. 1992). The Court also correctly determined that any prejudice by the State's inadvertent mistake, if any, did not outweigh the probative value of the evidence and testimony of these witnesses.

Furthermore, Defendant's blatant efforts to claim that the prosecutor on the case limited, modified, re-wrote, or obstructed compliance with I.C.R.16 is improper and unsubstantiated. Defense counsel appears to be scrambling for any reason to blame the prosecutor for his own conduct. As far as is known, the State received Discovery Requests from Defendant's counsel and as a courtesy Defendant's staff e-mailed a copy of the request to the State for the State's staff to respond to the best of its ability. If Defense counsel keeps changing the format of its requests and not courteously providing updated copies to the State for efficient responses then it is possible that clerical errors or inadvertent mistakes occur. For Defendant's counsel to assert otherwise that there is intentional non-compliance is unprofessional, spurious, and malicious. The Defendant's claim that this was purposeful and intentional conduct by the State is consistent with his constant efforts to discredit and personally attack the State. Such contention is in direct contradiction of what the State's role is in this case and all others that of "presenting the government's case earnestly and vigorously, using

every legitimate means to bring about conviction, but also to see that justice is done and that every criminal defendant is accorded fair trial." *State v. Reynolds*, 120 Idaho 445, 816 P.2d 1002 (Ct. App. 1991).

Battery with Intent to Commit Rape is a lesser included offense of Rape and the jury instructions given by the Court were appropriate based upon the evidence presented. (Defendant's Brief Items E & F)

This Court properly considered and gave the parties adequate opportunities to submit and argue proposed jury instructions. Defendant's argument that this Court failed in submitting to the jury appropriate jury instructions is incorrect.

As found by the Court of Appeals in *State v. Bolton*, 119 Idaho 846, 810 O.2d 1132 (Ct. App. 1991), Battery with Intent to Commit Rape is a lesser included offense of the charge of Rape. As such jury instructions should include an instruction for Battery with Intent as a lesser included offense of Rape.

In our case with the criminal complaint and information alleging the Defendant did penetrate the anus of Raushelle M. Goodin Guzman while she was unconscious or asleep, it is possible that reasonable doubt was raised in jurors' minds about the penetration or unconscious elements of the charged conduct of rape and the jury might have believed victim's testimony that she was anally penetrated but woke up during the act and as such disbelieved her testimony that she was raped but did believe that she had been battered by the Defendant as he was trying to commit the rape.

As defined, "a lesser included offense is one which is necessarily committed while committing crime charged or essential elements of which are alleged as manner or means by which charged offense has been committed." *Id.*

That is what was found here by the jury in *Gas*.

In determining what jury instructions should be given, courts cannot look merely to allegations in information to determine if an offense is necessarily included in a charged offense, they must also, for purposes of determining whether lesser included offense instruction is warranted, consider whether evidence adduced at trial shows that included offense was committed during the commission of charged offense. In Gas that is what the Court did and did so appropriately.

Defendant's argument that the crime of misdemeanor battery needed to be included in the jury instruction as well his argument that the Court has a duty to inform the jury whether a crime is a misdemeanor or felony are in error.

As noted by the Court, this was a crime involving sexual criminal conduct and a jury instruction for misdemeanor battery would not have fit the evidence that had been presented. Additionally, to provide categorization of the alleged crimes as misdemeanors or felonies to the jury would be improper. As provided for in the jury instructions, punishment is not to be of concern to a jury and as such to instruct a jury as to whether a crime is a felony or misdemeanor would be prejudicial as well as cause confusion and would be inappropriate to do.

Additionally, Defendant's attempt to apply *Moffat* to the facts of this case is incorrect. *Moffat* dealt with double jeopardy and multiple criminal acts with different elements involved. Here there is the act of Rape that was alleged and as set forth by case law includes the lesser offense of Battery with Intent to Commit Rape. Defendant, while trying to find any means to set aside the guilty verdict, has not properly applied *Moffat* to this case and its facts.

Also improperly applied is the concept of variance. Defendant's claim that there is an issue of variance in this case is also not proper. *State v. Montoya* provides that a variance is an issue and a basis for setting aside the verdict if the "variance between an information and an instruction affects the substantial rights of a defendant when it deprives the defendant of his right to fair notice or leaves him open to the risk of double jeopardy."

Defendant's claim that there is a variance here is incorrect. While the Information did charge Rape, it also included sufficient information that a lesser included offense could be charged or included. (*I.C.R. 7 Indictment and information*). As previously determined in *Bolton* the crime of Battery with Intent to Commit Rape is a lesser included offense to Rape and does not trigger a variance. In this case, since the Defendant had notice of the potential lesser included offense and his rights were not substantially affected, there was no variance issue.

**This Court properly denied the Defendant's Motion in Limine to exclude the State's DNA expert witnesses and it was not done as an inconsistent ruling.
(Defendant's Brief Item G)**

Defendant attempts to compare two completely different cases that were before two different courts in this district and raise a claim that this Court favors the State by ruling different on what Defendant claims is the same issue. This is incorrect.

Defendant raises a cohorts (Ms. Blake) case, *State v. Edmo*, that was before Judge Nye in which defense counsel was trying to introduce testimony at trial of an expert witness regarding the mental health state of the Defendant, Todd Edmo, when he committed the crime of Battery on a Law Enforcement Officer Idaho Code §18-915. Defendant in the Edmo case was going to introduce a medical provider to testify as to

the mental state and intent of the Defendant at the time of the incident, the State objected to this expert in that while Defense counsel had appropriately complied with I.C.R. 16 and provided the report, opinions and CV of the expert, Defendant's counsel had failed to comply with the second requirement of disclosing an expert testifying to the mental health of a defendant as required under I.C. §18-207(4) which provides that "No court shall, over the objection of any party, receive the evidence of any expert witness on any issue of mental condition, or permit such evidence to be placed before a jury, unless such evidence is fully subject to the adversarial process in at least the following particulars: (a) 90-days' notice in advance of trial or such other period as justice may require....cannot testify until (1) opposing party has a complete opportunity to consider the substance of the testimony and (2) prepare for rebuttal by getting own expert; (b) must furnish opposing party a written synopsis on a schedule set by the court." In the *Edmo* case the Court had found that the testimony of the expert was not in compliance with I.C. §18-207 and the testimony sought to be elicited by the defense counsel in *Edmo* was not in the expert's report provided nor found to be of relevance to the nature of the offense. (*Judge Nye's Order Granting Motion in Limine dated 05/05/14*).

Defendant's misapplication of that court's decision on different facts, circumstances, and crime charged to those before this Court in *Gas* is not proper. In attempting to pit one court against another when there are different standards and requirements depending on the type of expert and rules, the Defendant fails to provide a persuasive and valid argument as to how this Court erred in its decision on the DNA expert witnesses in this case based on the information and evidence before it at the time it issued its rulings.

The evidence presented was sufficient to support the jury verdict. (Defendant's Brief Item K)

The evidence at trial was sufficient to support Defendant Aman Farah Gas' conviction for Battery with Intent to Commit Rape.

Gas offered evidence at trial as well as he put the State to its proof to determine if it could establish guilt beyond a reasonable doubt. The challenge to the sufficiency of the evidence is not based on a technical or subtle defect. The Defendant simply says that there was not enough admissible evidence to convict him. *Idaho Criminal Rule 29(a)* provides that the trial court can address this issue on the motion of the Defendant or upon its own motion prior to the submission of the case to the jury. This was done in this trial and the Court made a finding that there was sufficient evidence to submit the case to the jury.

As was found by the jury, the evidence presented in the Gas trial was sufficient to sustain a conviction for Battery with Intent to Commit Rape. The evidence in this case was overwhelming. Witnesses testified as to their knowledge, conduct, and/or investigation in this matter. The victim testified to her personal knowledge of what happened to her at the body and conduct of Aman Farah Gas as well as what she had told others within a short amount of time of the incident. Subsequently, these other witnesses testified to what the victim's demeanor and her statements which were consistent with a person who had been raped. There was abundant medical evidence consistent with Raushelle M. Goodin Guzman's version of the events. Additionally, testimony from lab scientists establishing that the DNA of the victim Raushelle M. Goodin Guzman was found on the penis of Aman Farah Gas. The jury found the

Bias of the Court and Relief Requested (Defendant's Brief Part II)

Defendant's arguments that the Court was biased against him and his counsel are not correct and have no basis to petition this Court to disqualify itself from handling the matter further. As such, this Court was and is not biased and should not disqualify itself from this matter.

State v. Shackelford provides the Supreme Court will review a district judge's decision to deny a for-cause motion to disqualify the judge for bias or prejudice under an abuse of discretion standard. 155 Idaho 454 314 P.3d 136 (S. Ct. 2013) and *Criminal Rule 25(b)(4)*.

It has been decided that a trial judge, who presided over a defendant's trial, did not abuse his discretion by denying the defendant's motion to disqualify him for bias or prejudice on reconsideration. The judge properly understood the disqualification standard and also that the decision to grant the motion was at his discretion. If a judge can state that cumulative effect of all the information he was privy to did not prejudice him against defendant, and the judge reaches his decision to deny the for cause disqualification motion through an exercise of reason, then the judge will not have abused his discretion. *Id. and Criminal Rule 25(b)(4)*.

In determining whether a district judge abused his discretion in denying a for-cause motion to disqualify him for bias or prejudice, the Supreme Court asks: (1) whether the judge correctly perceived the issue as discretionary; (2) whether the judge acted within the boundaries of his discretion and consistent with the applicable legal standards; and (3) whether the judge reached his determination through an exercise of reason. *Id.*

A trial judge is not required to erase from his mind all that has gone before, and indeed, it is doubtful that any human being could, and if the judge can make the proper legal analysis, then the motion to disqualify should be denied. *Id.*

Disqualification is only necessary where the trial judge has "actual bias" against the defendant of such nature and character as would render it improbable that under the circumstances the party could have a fair and impartial trial. *Id.*

As can be determined on review of the record of the trial, as well as the arguments of the Defendant and State, the Defendant has shown no actual bias of the judge in this case. Therefore, the judge should not be disqualified and the Defendant's Motion for Disqualification denied.

CONCLUSION

WHEREFORE based upon the aforementioned bases and argument the State respectfully requests this Court to deny the Defendant's Motion to Set Aside the Verdict and to deny his Motion for a New Trial; as well as deny the Defendant's Motion to Disqualify and proceed to sentencing on this matter.

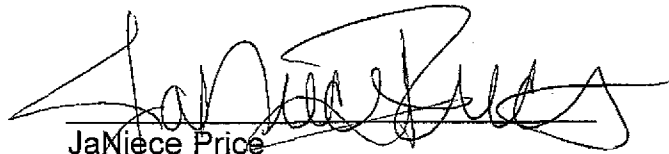
DATED this 11th day of September, 2014.


JANIECE PRICE
Asst. Chief Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY that on this 17th day of September, 2014, I caused a true and correct copy of the *foregoing Plaintiff's Response Brief Re: Defendant's Motion to Set Aside Verdict and Motion for New Trial and Motion for Disqualification* to be placed in and addressed to:

Kent Reynolds
Bannock County Public Defender's Office
Courthouse Mailbox – Public Defender's
Pocatello, ID 83205-6252



JaNiece Price
Asst. Chief Deputy Prosecuting Attorney

Randall D. Schulthies
Chief Public Defender
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Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 SEP 25 PM 4:02

BY KV
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

)
) **CASE NO. CR-2013-864-FE-A**
)
) **SECOND MOTION TO SET ASIDE**
) **VERDICT AND SECOND MOTION**
) **FOR NEW TRIAL**
)
)
)
)

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V. Reynolds, Deputy Public Defender, and hereby moves this Court pursuant to Rule 34, I.C.R., for its order setting aside the verdict and ordering a new trial on the grounds and for the reasons that the jury selection process utilized by the court was in violation of Idaho Code §2-206 and Rule 24, I.C.R. and that this error was fundamental error.

Defendant files the motion on the grounds the trial court's method of jury selection denied the Defendant his right to due process, equal protection of the law and right to a fair trial.

As the Defendant's Motion to Set Aside Verdict and Motion for New Trial and Amended Motion to Set Aside Verdict and Amended Motion for New Trial are still pending, the State will not suffer any prejudice arising out of this Motion. The State will have time to submit a responsive brief prior to the hearing the on the pending motions.

DATED this 25 day of September, 2014.



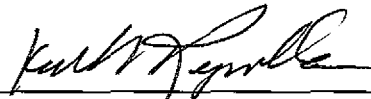
KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25 day of September, 2014, I served a true and correct copy of the **SECOND MOTION TO SET ASIDE VERDICT AND SECOND MOTION FOR NEW TRIAL** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



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Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
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BY KV
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

)
) **CASE NO. CR-2013-864-FE-A**
)

) **BRIEF IN SUPPORT OF SECOND**

) **MOTION TO SET ASIDE**

) **VERDICT AND SECOND MOTION**

) **FOR NEW TRIAL**
)
)
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)

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V.

Reynolds, Deputy Public Defender, and hereby submits the following brief in support of

Defendant's Second Motion to Set Aside Verdict and Second Motion for New Trial.

The method for selection of a jury is outlined primarily at Idaho Code §§2-201 through 2-206 and Rule 24, I.C.R. Pursuant to Idaho Code §2-206, the jury commission is required to "compile and maintain a master jury list consisting of the current voter registration list for the county supplemented with names from other lists of persons resident therein, such as lists of

utility customers, property taxpayers, motor vehicle registrations, drivers' licenses, and state identification cards, which the supreme court from time to time designates." Upon request of the appropriate entity, such as a court, the jury commission shall "draw and assign to that court or official the number of qualified jurors deemed necessary for one (1) or more jury panels or as required by law for a grand jury. The jury commission shall "publicly draw at random . . . from the master jury list the number of prospective jurors specified." the list of selectees becomes the prospective jury panel, which "means the list of names or identifying numbers of prospective jurors drawn at random from the master jury list pursuant to section 2-208, Idaho Code, and who are not disqualified pursuant to section 2-209, Idaho Code." Idaho Code §2-204(6). The group subject to voir dire is drawn from the prospective jury panel. Rule 24 states,

Voir dire examination of the prospective jurors drawn from the **jury panel** shall first be conducted by the court. The attorney for the plaintiff, and then the attorney for the defendant, and then the attorney for each other party to the action shall then be permitted to propound questions to prospective jurors concerning their qualifications to sit as jurors in the action. (Emphasis added).

The question that arises is whether this issue can be addressed post-trial verdict.

We hold that in case of unobjected to fundamental error: (1) the Defendant must demonstrate that one of more of the defendant's unwaived constitutional rights were violated; (2) the error must be clear or obvious, without the need for any additional information not contained in the appellate record, including information as to whether the failure to object was a tactical decision; and (3) the defendant must demonstrate that the error affected the defendant's substantial rights, meaning (in most instances) that it must have affected the outcome of the proceedings. State v. Perry, 150 Idaho 209, 245 P. 3d 961 (2010).

Defendant asserts that the court committed fundamental error in the jury selection process. The right to a fair trial was not waived by the Defendant. The error is clear and obvious as the method was in violation of Idaho Code §§2-201 through 2-208. The process was in

violation of Rule 24, I.C.R. and no further reference to facts other than in the record are required. The method impaired or affected the fundamental rights of the Defendant's and it affected the outcome of the trial because the both the State and the Defendant could not have conducted fully and adequately voir dire of prospective jury panel. There was a mass of people sitting in the gallery with physical barriers impeding the ability to view and observe the jurors. The court's violation impacted the trial because the voir dire is to be limited to the those jurors drawn from the prospective jury panel, which by its very definition will be a substantially smaller group of individuals than the prospective jury panel.

Based upon the foregoing, Defendant request the court to grant the Motion to Vacate the Jury Verdict and the Motion for New Trial and to impanel another jury panel that complies with the requirements of Idaho Code §§2-206, 2-208 and Rule 24, I.C.R.

DATED this _____ day of September, 2014.

KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the _____ day of September, 2014, I served a true and correct copy of the **BRIEF IN SUPPORT OF SECOND MOTION TO SET ASIDE VERDICT AND SECOND MOTION FOR NEW TRIAL** upon the party below as follows:

Bannock County	<input type="checkbox"/>	Hand Deliver
Prosecuting Attorney	<input type="checkbox"/>	First Class Mail
Prosecutor's in-box, Room 220	<input type="checkbox"/>	Certified Mail
Bannock County Courthouse	<input type="checkbox"/>	Facsimile
Pocatello, Idaho 83205		

KENT V. REYNOLDS
Deputy Public Defender

STEPHEN F. HERZOG
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P.O. Box P
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FILED
BANNOCK COUNTY
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2014 OCT -7 PM 1:40

BY
DEPUTY CLERK

ORIGINAL

JaNiece Price, ISB #7161
Asst. Chief Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR-2013-00864-FE-A
)	
vs.)	
)	
AMAN FARAH GAS,	)	PLAINTIFF'S RESPONSE BRIEF RE:
	)	DEFENDANT'S SECOND MOTION TO SET
Defendant.	)	ASIDE VERDICT AND MOTION FOR NEW
	)	TRIAL
_____)	

COMES NOW the Plaintiff, State of Idaho, by and through its attorney, JaNiece Price, Assistant Chief Deputy, and submits this brief in response to the Defendant's Second Motion to Set Aside the Verdict and Second Motion for a New Trial.

The State objects to these motions and requests the Court deny them.

As provided "[t]he court on motion of a defendant may grant a new trial to the defendant if required in the interest of justice. A trial court has wide discretion to grant or refuse to grant a new trial, and, on appeal, the appellate court will not disturb that exercise of discretion, absent a showing of manifest abuse. *State v. Goggin*, 2014 WL

DEFENDANT'S CLAIM

The defendant alleges the court committed fundamental error by allowing the entire jury panel to be subjected to voir dire rather than limiting voir dire to only the prospective jurors. As a result of this error, defendant claims the defendant could not have "fully and adequately" conducted voir dire because there was a "mass of people sitting in the gallery" and "physical barriers impeding the ability to view and observe the jurors." He claims that conducting voir dire in this manner "impaired or affected the fundamental rights of the Defendant's [sic] and it affected the outcome of the trial because the both [sic] the State and the Defendant could not have conducted fully and adequately voir dire of prospective [sic] jury panel."

ARGUMENT

1. There Was No Error

The State responds there was no error and presents the following bases for the jury selection process being conducted fairly and that no error occurred.

The "prospective jury panel" is defined in *I.C. §2-204(6)* as the "list of names or identifying numbers of prospective jurors drawn at random from the master jury list pursuant to section 2-208." *I.C. §19-2003* defines a jury "panel" as "a list of jurors returned by a sheriff to serve at a particular court or for the trial of a particular action."

All the potential jurors who were in the courtroom on May 19, 2014 made up the "prospective jury panel" or "panel." *Rule 24(b)* of the Idaho Criminal Rules states in part that "[c]hallenges for cause may be made by an attorney at any time while questioning a prospective juror [...] or the prospective jury if questioned as a whole [.]" The rule clearly

contemplates voir dire may be directed not only to the individual jurors selected by the court from the panel, but to the entire panel since anyone in the panel is a potential juror if any of the selected jurors are removed for cause. As such the means by which jury selection was conducted in this matter was conducted in compliance with Idaho laws and was not unfairly prejudicial to the Defendant and did not result in any fundamental errors to the trial process.

2. The Defendant Chose the Wrong Remedy

The defendant avers that the "error is clear and obvious as the method was in violation of *Idaho Code §§2-201 through 208*." Assuming for the sake of argument that there was a violation, the defendant's sole remedy is set forth in *§I.C.2-213(3)*: "The procedures prescribed by this section are the exclusive means by which a person accused of a crime [...] may challenge a jury on the ground that the jury was not selected in conformity with this chapter."

In *State v. Lopez*, 107 Idaho 726, 737, 692 P.2d 370, 381 (1984), the defendant argued the manner in which Hispanics were included in the jury pool led to Hispanics being improperly underrepresented in the jury pool. The Court noted that the claims were supported by "two unverified motions" and, citing *I.C. §2-213*, held that the absence of any "sworn statement of facts" was "fatal to a statutory challenge to the jury."

Like the defendant in *Lopez*, the defendant here has submitted an unverified motion. In addition, the jury was seated on May 19, 2014, over four months ago. *Idaho Code §2-213* requires a statutory challenge to be filed "within seven (7) days after the moving party discovered or by the exercise of diligence could have discovered the

grounds" for filing such request for relief. The defendant knew or should have known about the facts giving rise to his motion on the day of trial and has not complied with proper procedure in raising this alleged issue.

As such, the court should deny defendant's motion on the grounds that the pleadings are untimely and factually insufficient.

3. Allegations Set Forth by Defendant Are Not Grounds for New Trial

Rule 34 of the Idaho Criminal Rules incorporates the exclusive list of reasons found in *I.C. §19-2406* for which a new trial may be granted. (See *State v. Cantu*, 129 Idaho 673, 931 P.2d 1191 (1997)). In *State v. Gomez*, 126 Idaho 83, 86, 878 P.2d 782, 785 (1994), the court wrote: "Idaho Code § 19-2406 sets forth the only bases for the grant of a new trial. Ineffective assistance of counsel is not included in that list. Thus, as previously noted by this Court, while a decision of whether to grant a new trial is a discretionary matter for the trial judge, *I.C. § 19-2406* limits the instances in which that discretion may be exercised. Only those grounds provided statutorily can support the grant of a new trial."

In this case, the defendant claims the court erred in the manner it conducted jury selection. Such a claim is not one of the seven (7) reasons set forth by statute, nor can any reasonable argument be made that Defendant's claim fits into one of those reasons. Clearly, the Defendant has no bases for motioning for a new trial based on the juror selection process in this trial.

4. Perry Analysis Inappropriate

Furthermore, the defendant suggests the court should consider the analysis set forth in *State v. Perry* which addresses unobjected to claims of fundamental error.

Here, a fundamental error analysis is inappropriate. 150 Idaho 209, 245 P.3d 961 (2010). As noted in *Perry*, "where ... the asserted error relates not to infringement upon a constitutional right, but to violation of a rule or statute,... the 'fundamental error' doctrine is not invoked." *Id.* at 980 (citations omitted). In this case, the defendant's argument is based entirely on an alleged departure by the court from the statutory prescriptions for jury selection set forth in *Idaho Code*. §2-201, *et seq.*

Even if the court were to conclude a *Perry* analysis was appropriate, the defendant would not be able to satisfy the second prong of the analysis by showing a clear error solely from the record. There is nothing in the trial transcript that in any way supports defendant's claims that his "ability to view and observe the jurors" during jury selection was impaired. Additionally, the defendant is also unable to satisfy the third prong by demonstrating that the error affected the outcome of the trial. As can be determined any application of *Perry* in this matter would not be appropriate.

4. Defendant's Claims Unsupported by Facts or Authority

Finally, the defendant's claims, i.e., that the method used in jury selection "impaired or affected the fundamental rights" and "affected the outcome of the trial," are conclusions unsupported by facts or legal authority and were claims which could have been objected to during jury selection but were not. To now raise such claims four months after trial for the first time is not proper nor should the court give any weight to the unsubstantiated claims.

CONCLUSION

Therefore, the court should deny defendant's Second Motion to Set Aside Verdict and his Second Motion for New Trial because the defendant has failed to demonstrate

an error occurred, failed to exercise the exclusive remedy for this type of alleged error as set forth in I.C. §2-213(3), failed to recognize that *Rule 34* of the Idaho Criminal Rules and I.C. §19-2406 do not provide relief for this type of claim, and failed to provide facts and authority to support the conclusion of the defendant that he was unfairly prejudiced by the method used for jury selection.

WHEREFORE based upon the aforementioned bases and argument the State respectfully requests this Court to deny the Defendant's Second Motion to Set Aside the Verdict and to deny his Second Motion for a New Trial and proceed to sentencing on this matter.

DATED this 7th day of October, 2014.



JaNIECE PRICE
Asst. Chief Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY that on this 7th day of October, 2014, I caused a true and correct copy of the *foregoing Plaintiff's Response Brief Re: Defendant's Second Motion to Set Aside Verdict and Second Motion for New Trial* to be placed in and addressed to:

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JaNiece Price
Asst. Chief Deputy Prosecuting Attorney

Randall D. Schulthies
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Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 OCT 21 PM 4:11

BY KH
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

)
) **CASE NO. CR-2013-864-FE-A**
)

) **THIRD MOTION TO SET ASIDE**
) **VERDICT AND THIRD MOTION**
) **FOR NEW TRIAL**
)
)
)
)

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V.

Reynolds, Deputy Public Defender, and hereby moves this Court pursuant to

Rule 34, I.C.R., for its order setting aside the verdict and ordering a new trial on the grounds and for the reasons that the court committed fundamental error by failing to include any instruction defining the term "wilful" which was an essential element of the crime of battery with intent to commit rape. Defendant refers the court to the holding in State v. Anderson, 144 Idaho 743, 170 3d 886 (2007). The battery instruct submitted to the jury did not define the term wilful. The battery with intent instruction included the word wilful. The court should have included an

Third Motion to Set Aside Verdict and Third Motion for New Trial
Page 1

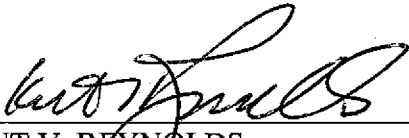
instructing defining wilful similar to the wilful element outlined in State v. Lilly, 142 Idaho 70, 122 P. 3d 1170 (Ct. App. 2005). In that case, the court held the general wilful definition set forth in ICJI 340 was erroneous because that definition speaks to a state of mind, whereas the crime of felony domestic battery requires a wilful act with the intent to cause a traumatic injury.

In this case, after the correct erred in instructing on the crime of battery with intent, the failure to provide further instruction regarding the term "wilful" compounded the court's error further misleading the jury and lessening the burden of proof the State had to meet. See State v. Anderson, 144 Idaho 743, 170 P.3d 886 (2007).

In raising this issue of error, Defendant does not waive or concede that jury should have been instructed on the crime of battery with intent to commit rape, and re-asserts the claim that it was error.

As the Defendant's Motion to Set Aside Verdict and Motion for New Trial and Amended Motion to Set Aside Verdict and Amended Motion for New Trial are still pending, the State will not suffer any prejudice arising out of this Motion. The State will have time to submit a responsive brief prior to the hearing the on the pending motions.

DATED this 21 day of October, 2014.



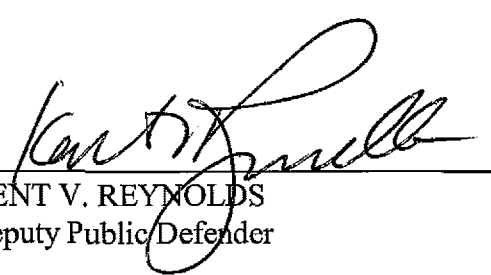
KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21 day of October, 2014, I served a true and correct copy of the **THIRD MOTION TO SET ASIDE VERDICT AND THIRD MOTION FOR NEW TRIAL** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Deputy Public Defender

STEPHEN F. HERZOG
BANNOCK COUNTY PROSECUTING ATTORNEY
P.O. Box P
Pocatello, Idaho 83205-0050
Telephone (208) 236-7280

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 OCT 27 AM 10:52
BY KLL
DEPUTY CLERK

JANIECE PRICE, ISB #7161
Deputy Prosecuting Attorney

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN FARAH GAS,

Defendant.

CASE NO. CR-2013-0864-FE-A

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN, to the Court and Defendant that the State of Idaho will call up for hearing, the following motions: *Defendant's Amended Motion to Set Aside Verdict and for New Trial and to Disqualify, and Defendant's Second and Third Motions to Set Aside Verdict and for New Trial* on MONDAY, NOVEMBER 3, 2014, at the hour of 9:00 a.m., before the Honorable STEPHEN DUNN, Sixth District Judge, Courtroom No. 301 at the Bannock County Courthouse in Pocatello, Idaho.

DATED This 27TH day of October, 2014.

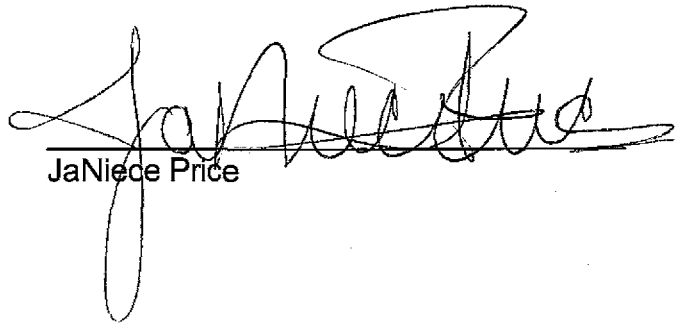

JANIECE PRICE
Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY That on this 27th day of October, 2014, a true and correct copy of the foregoing NOTICE OF HEARING on Defendant's Amended Motion and Second and Third Motions to Set Aside Verdict and New Trial and Amended Motion to Disqualify was delivered to the following:

KENT REYNOLDS
PUBLIC DEFENDERS OFFICE
BANNOCK COUNTY COURTHOUSE
POCATELLO, ID 83205

☐ mail -
postage prepaid
☐ hand delivery
☐ facsimile
☒ Courthouse Mailbox



JaNiece Price

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 OCT 28 PM 3:54

BY: [Signature]
DEPUTY CLERK

ORIGINAL

STEPHEN F. HERZOG
Bannock County Prosecutor
P.O. Box P
Pocatello, ID 83205
Phone No.: (208) 236-7280
Fax No.: (208) 236-7288

JaNiece Price, ISB #7161
Asst. Chief Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR-2013-00864-FE-A
)	
vs.)	
)	
AMAN FARAH GAS,	)	PLAINTIFF'S RESPONSE BRIEF RE:
	)	DEFENDANT'S THIRD MOTION TO SET
	)	ASIDE VERDICT AND MOTION FOR NEW
Defendant.	)	TRIAL
)	

COMES NOW the Plaintiff, State of Idaho, by and through its attorney, JaNiece Price, Assistant Chief Deputy, and submits this response to the Defendant's Third Motion to Set Aside the Verdict and Third Motion for a New Trial.

The State objects to these motions and requests the Court deny them.

As provided "[t]he court on motion of a defendant may grant a new trial to the defendant if required in the interest of justice. A trial court has wide discretion to grant or refuse to grant a new trial, and, on appeal, the appellate court will not disturb that exercise of discretion, absent a showing of manifest abuse. *State v. Goggin*, 2014 WL 4160019 (S.Ct. 2014).

As well as the Defendant's Motions are not filed timely under I.C.R. 34 and are prejudicial to the State due to their untimeliness since five months have passed since

the verdict was entered and the victim has had no closure on this matter. As such the motions should be denied.

DEFENDANT'S CLAIM

The defendant alleges the court committed fundamental error by "failing to include any instruction defining the term 'willful' which was an essential element of the crime of Battery with Intent to Commit Rape." The State contends that there was no error committed by the Court; but if found an error occurred, said error, if any, was harmless and did not result in any prejudice or harm to the Defendant.

ARGUMENT

1. There Was No Error

The State responds there was no error and presents the following bases for the jury instructions being given were correct and that no error occurred.

The bases for jury instructions are that the instructions, "when taken as a whole, fairly and adequately present the issues and state the law." *State v. Anderson*, 144 Idaho 743 S. Ct. (2007). In order to determine if error occurred a review of the jury instructions must show that the error "so profoundly distorts the trial that it produces manifest injustice and deprives the accused of his fundamental right to due process." *State v. Lavy*, 121 Idaho 842, 844, 828 P.2d 871,873 (1992).

A review of this case's record and circumstances reflects that an error in the jury instructions did not occur. This Court gave both the State and the Defendant a number of opportunities to review and comment and object to jury instructions prior to the start of trial, during trial and before closing arguments. At no time did Defendant's counsel raise any objection or issue in relation to the word "willful" in the proposed jury

instructions. The record indicates that the Defendant did object to the Battery with Intent Jury Instruction in and of itself but even after being advised by the Court as to what the final jury instructions would be Defendant failed to raise any argument to the wording or definitions being submitted to the jury.

I.C.R. 30(b) provides that "[n]o party may assign as error the giving of or failure to give an instruction unless the party objects thereto before the jury retires to consider its verdict, stating distinctly the instruction to which the party objects and the grounds of the objection." As shown in the transcript of this matter, there was no objection raised by the Defendant in regards to the term "willfully" or its definition.

Due to no objection and no error occurring that distorted the trial, the Defendant's motions should be denied because there has not been any injustice or violation of due process rights of the Defendant.

2. If there is an error is it harmless

The defendant posits that an error occurred and that said error is fundamental and that the jury instructions given were improper. The State disagrees. There was no fundamental error and the jury instructions given were appropriate based upon the issues and the applicable law. Additionally, even if it is found that there was an error, any error found is not fundamental in nature or reversible but was harmless and did not distort the trial process or prejudice the Defendant.

Jury instructions, when considered as a whole, need to fairly and adequately present the issues and state the applicable law. *State v. Young*, 138 Idaho 370, 372, 64 P.3d 296, 298 (2002). Instructions must not mislead the jury or prejudice a party. The instructions presented to the jury in this case were neither misleading nor prejudicial.

When an element is uncontested and supported by overwhelming evidence and the jury verdict would have been the same absent any error then the Court can determine that the jury instruction error, if any, was harmless. *State v. Lilly*, 142 Idaho 70 (2005). In this matter, the Defendant did not contest the "willfully" portion of the jury instruction on the offense of Battery with Intent to Commit Rape and when applying the jury instructions submitted to the jury and applying the evidence and facts of the case to that instruction it can be determined that overwhelmingly that the jury verdict would have been the same absent this claimed error. As such, the Defendant's motion has no basis and should be denied because no error occurred and even if error had occurred it was harmless and the jury verdict would not have a different outcome because of this error.

3. Allegations Set Forth by Defendant Are Not Grounds for New Trial

Rule 34 of the Idaho Criminal Rules incorporates the exclusive list of reasons found in *I.C. §19-2406* for which a new trial may be granted. (See *State v. Cantu*, 129 Idaho 673, 931 P.2d 1191 (1997)). In *State v. Gomez*, 126 Idaho 83, 86, 878 P.2d 782, 785 (1994), the court wrote: "*Idaho Code § 19-2406* sets forth the only bases for the grant of a new trial. Ineffective assistance of counsel is not included in that list. Thus, as previously noted by this Court, while a decision of whether to grant a new trial is a discretionary matter for the trial judge, *I.C. § 19-2406* limits the instances in which that discretion may be exercised. Only those grounds provided statutorily can support the grant of a new trial."

In this case, the defendant claims the Court erred in the manner it presented jury instructions. Such a claim is not one of the seven (7) reasons set forth by statute, nor

can any reasonable argument be made that Defendant's claim fits into one of those reasons. As previously argued and shown, the jury verdict was based upon overwhelming evidence and the verdict would not have been decided differently because of this claimed error that Defendant raised five months after trial but did not raise or contest at the time of trial.

Clearly based upon the evidence, the circumstances and the law, the Defendant has no bases for motioning for a new trial on the claim of an error in the jury instructions utilized in this trial.

CONCLUSION

Therefore, the Court should deny Defendant's Third Motion to Set Aside Verdict and his Third Motion for New Trial because the defendant has failed to demonstrate an error occurred in the jury instructions, failed to recognize that *Rule 34* of the Idaho Criminal Rules and *I.C. §19-2406* do not provide relief for this type of claim, and failed to provide facts and authority to support that any error in the jury instructions, even a harmless one, caused unfair prejudice to the defendant or would have resulted in a different outcome.

WHEREFORE based upon the aforementioned bases and argument the State respectfully requests this Court to deny the Defendant's Third Motion to Set Aside the Verdict and to deny his Third Motion for a New Trial and proceed to sentencing on this matter.

DATED this 28th day of October, 2014.


JANIECE PRICE
Asst. Chief Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY that on this 28th day of October, 2014, I caused a true and correct copy of the *foregoing Plaintiff's Response Brief Re: Defendant's Third Motion to Set Aside Verdict and Third Motion for New Trial* to be placed in and addressed to:

Kent Reynolds
Bannock County Public Defender's Office
Courthouse Mailbox – Public Defender's
Pocatello, ID 83205-6252



JaNiece Price
Asst. Chief Deputy Prosecuting Attorney

Randall D. Schulthies
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

Kent V. Reynolds
Deputy Public Defender

Attorneys for Defendant

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 OCT 30 PM 3:57
BY KH
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff

v.

AMAN GAS,

Defendant.

)
) **CASE NO. CR-2013-864-FE-A**
)

) **FOURTH MOTION TO SET ASIDE**
) **VERDICT AND FOURTH MOTION**
) **FOR NEW TRIAL**
)
)
)
)

COMES NOW the Defendant, Aman Gas, by and through his attorney, Kent V.

Reynolds, Deputy Public Defender, and hereby moves this Court pursuant to

Rule 34, I.C.R., for its order setting aside the verdict and ordering a new trial on the grounds and for the reasons that the Defendant was denied a fair trial and his right to due process of law was denied as a result of the Idaho State Forensics Lab not testing samples for DNA analysis. Rylene Nowlin admitted during cross-examination that certain potential DNA source items, were not tested for the presence of DNA because the lab does not have the ability to conduct the particular tests or did not even know that an item was available for testing. Defendant refers the court to

Fourth Motion to Set Aside Verdict and Fourth Motion for New Trial
Page 1

the Trial Transcript, pages 714 - 738 in support of this motion.

Defendant also asserts the court committed fundamental error for allowing the State's so-called expert witnesses, Rylene Nowlin and Jamie Femreite to testify based on the State's failure to comply with Rule 16, I.C.R. which mandates the State provide the expert qualifications. The State did not provide those qualifications until just before both Ms. Nowlin and Ms. Femreite testified.

As the Defendant's motions to set aside verdict and motions for new trial are still pending, the State will not suffer any prejudice arising out of this Motion.

This motion relates back to the other motions filed on behalf of the Defendant.

DATED this 30 day of October, 2014.



KENT V. REYNOLDS
Deputy Public Defender
Attorney for Defendant

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 30 day of October, 2014, I served a true and correct copy of the **FOURTH MOTION TO SET ASIDE VERDICT AND FOURTH MOTION FOR NEW TRIAL** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile



KENT V. REYNOLDS
Deputy Public Defender

STEPHEN F. HERZOG
Bannock County Prosecutor
P.O. Box P
Pocatello, ID 83205
Phone No.: (208) 236-7280
Fax No.: (208) 236-7288

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 OCT 31 PM 1:47

BY KH
DEPUTY CLERK

ORIGINAL

JaNiece Price, ISB #7161
Asst. Chief Deputy Prosecutor

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. CR-2013-00864-FE-A
)	
vs.)	
)	
AMAN FARAH GAS,	)	PLAINTIFF'S RESPONSE BRIEF RE:
	)	DEFENDANT'S FOURTH MOTION TO SET
Defendant.	)	ASIDE VERDICT AND MOTION FOR NEW
	)	TRIAL

COMES NOW the Plaintiff, State of Idaho, by and through its attorney, JaNiece Price, Assistant Chief Deputy, and submits this response to the Defendant's Fourth Motion to Set Aside the Verdict and Fourth Motion for a New Trial.

The State objects to these motions and requests the Court deny them.

As provided "[t]he court on motion of a defendant may grant a new trial to the defendant if required in the interest of justice. A trial court has wide discretion to grant or refuse to grant a new trial, and, on appeal, the appellate court will not disturb that exercise of discretion, absent a showing of manifest abuse. *State v. Goggin*, 2014 WL 4160019 (S.Ct. 2014).

As well as the Defendant's Motions are not filed timely under I.C.R. 34 and are prejudicial to the State due to their untimeliness since five months have passed since the verdict was entered and the victim has had no closure on this matter. Additionally that Defendant's counsel will not set a hearing as he has stated he would after the Second Motion to Set Aside Verdict and New Trial and continues to file motions which are causing prejudice to the State and to the victim.

Therefore the Defendant's Fourth Motions should be denied and Defendant's Counsel should be ordered to pay attorneys' fees and costs in this matter due to the continued delay of setting a hearing on this matter.

DEFENDANT'S CLAIM

The Defendant alleged he was denied a fair trial and his due process rights were violated due to some DNA evidence not being tested by the Idaho State Forensics Lab. Defendant also claims the Court committed fundamental error by allowing the State Forensic Lab Scientists, Rylene Nowlin and Jamie Femreite, to testify at trial as expert witnesses.

The State contends that the Defendant's rights of due process and a fair trial were not violated because of certain DNA samples not being tested and furthermore there was no error committed by the Court with regards to the ruling to allow the State's Forensic Lab Scientists to testify as expert witnesses. Though if an error occurred, said error, if any, was harmless and did not result in any prejudice or harm to the Defendant.

ARGUMENT

1. The Defendant's Rights to a Fair Trial and Due Justice were not violated by some DNA samples not being tested by the Lab

Defendant claims that the Defendant's rights to a fair trial and due process were violated because the Idaho State Forensics Lab did not test some samples of DNA that had been submitted for analysis. The State contends the Defendant's rights were not violated and that Defendant's Fourth Motion to Set Aside Jury Verdict and Motion for a New Trial should be denied.

Defendant does not provide any statutory or case law as bases for his argument; as well as did not object to or raise this issue at trial during the testimony being presented. As was presented during trial, the Idaho State Forensic Lab Scientists testified to the testing and analyzing of various samples submitted to the lab. Each Scientist explained why and how items were tested and the processes. Defendant's counsel questioned these experts with regards to certain tests and items and elicited testimony that the expert lab scientists explained that some tests were not able to be performed due to technology and capabilities as well as the lab only test items that were submitted. Said testimony by these two expert scientists was based upon their training and experience and the process of the Idaho State Forensics Lab.

Counsel claims that due to certain items not being tested or submitted to the lab that the Defendant's rights were violated. This is not correct. The Defendant and his counsel knew of the various items and evidence in the case in advance of trial. The Defendant and his counsel also knew what items had been submitted and tested and what the results were because this information had been provided to the Defendant and his counsel well over seven (7) months prior to trial. The Defendant did nothing in contacting or asking the State or the Court about additional testing and analysis of the items or further testing and/or analysis of DNA items in the seven (7) months prior to trial. Nor was there any objection as to the violation of the Defendant's rights during trial.

when testimony was presented about the DNA samples and what testing and analysis had or had not been conducted and on what items. Now for counsel to raise the issue is untimely and improper. Counsel had sufficient time prior to trial to address issues or concerns he had with the DNA samples and analysis and any items related to the DNA in relation to this criminal conduct of the Defendant.

For the aforementioned reasons as well as those presented in the State's First Response to the Defendant's First Motion to Set Aside Verdict and for a New Trial in relation to Defendant's claims of the Defendant's fair trial and due process rights being violated; and it being shown that the Defendant's rights to a fair trial and due process were not violated as well as based upon the improper timing and the lack of any objection during trial by the Defendant in relation to the DNA samples and analysis, this Court should deny the Defendant's Fourth Motion to Set Aside the Verdict and his Motion for a New Trial.

2. There Was No Fundamental Error committed by the Court in allowing the testimony of the State's Expert Witnesses Idaho State Police Lab Scientists

Rylene Nowlin and Jamie Femrelte

The State responds there was no error committed by the Court in allowing Lab Scientists Rylene Nowlin and Jamie Femrelte to testify as experts at trial. The State has previously responded to a portion of this issue in the Defendant's First Motion to Set Aside Jury Verdict and Motion for a New Trial but again presents the following argument that no error occurred.

Defendant's claims that the State failed to provide expert qualifications in compliance with the I.C.R. 16(b)(6) and (7) are not correct or persuasive in showing that

the Defendant was prejudiced and that the Court allowing those witnesses to testify was in error.

Case law provides that when a late-disclosed witness or non-designated witness has been allowed to testify despite the defendant's objection to the untimely disclosure, a court will not reverse the decision in the absence of a showing that the delayed or non-designation disclosure prejudiced the defendant's preparation or presentation of his defense. *State v. Allen*, 145 Idaho 183, 177 P.3d 397 (Ct. App. 2008).

As argued at the time of trial, the State's discovery requests designated Lab Scientists Rylene Nowlin and Jamie Femreite as witnesses from the Idaho State Forensics Lab. Additionally upon receipt of lab results, the State provided to the Defendant in discovery responses voluminous pages, well over 100 pages and discs that included lab reports, analysis reports, and comparison of allele charts, and notes of these witnesses. Various documents related to the Forensic Lab Scientists were provided to Defendant's counsel and Defendant throughout the initial filing of the case and towards the end near trial, including but not limited to lab reports in June 2013 as well as into October of 2013 as these documents and evidence were received by the State. The only item not provided to Defense Counsel was a copy of the Curriculum Vitae's of these State Forensic Lab witnesses. Immediately, upon receipt of these Curriculum Vitae's at trial, the State provided copies to the Defendant and his attorney, who were given time by the Court to review those documents. As such it can be shown that the State did comply with I.C.R. 16 and provided expert qualifications to the Defendant and that the Court was correct and did not in error in allowing those experts to testify.

For the Defendant to claim the Court allowing them to testify to be a fundamental error is improper. Defendant had information before him at least 7 to 12 months prior to the trial that Rylene Nowlin and Jamie Femreite would be testifying and what they would be testifying about as well as what expertise these witnesses' would testify about as well as what their training and experience would be as experts in the area of Forensic Lab Scientists and in relation to DNA. In fact, as argued at the time of trial with regards to the Forensic Lab Scientists Nowlin and Femreite, it is noted in one of the scientist's notes contained in the State's disclosures to the Defendant that Defendant's counsel had had a telephonic conversation about the lab reports and results with one of the Scientists in June of 2013.

Defendant's attempt to claim a fundamental error occurred when the Court allowed the expert witnesses Jamie Femreite and Rylene Nowlin, Idaho State Forensic Lab Scientists, to testify is not valid. In fact, even at trial when questioning the Scientists the Defendant had the opportunity to question about testing techniques, the training and experience of the scientists as well as their opinions and knowledge of DNA and the possibility of it being transferred. Defendant was not prejudiced nor was any error committed by the Court allowing this testimony.

Wherefore, Defendant's claim of the Court committing a fundamental error by allowing the State's Forensic Expert Witnesses, Idaho State Lab Scientists Jamie Femreite and Rylene Nowlin, to testify should be denied.

3. If there is an error is it harmless

The defendant posits that an error occurred and that said error is fundamental. The State disagrees. There was no fundamental error and the Court's rulings with regards to the Idaho State Forensic Lab Scientists testifying was appropriate based

upon the issues and the applicable law. Additionally, even if it is found that there was an error, any error found is not fundamental in nature or reversible but was harmless and did not distort the trial process or prejudice the Defendant.

When an element is uncontested and supported by overwhelming evidence and the jury verdict would have been the same absent any error then the Court can determine that error, if any, was harmless. *State v. Lilly*, 142 Idaho 70 (2005). In this matter, the Court thoroughly reviewed and determined correctly that the testimony of the Idaho State Lab Scientists was allowed and in doing so committed no error and even if an error had occurred it was harmless and the jury verdict would not have a different outcome because of this error.

4. Allegations Set Forth by Defendant Are Not Grounds for New Trial

Rule 34 of the Idaho Criminal Rules incorporates the exclusive list of reasons found in *I.C. §19-2406* for which a new trial may be granted. (See *State v. Cantu*, 129 Idaho 673, 931 P.2d 1191 (1997)). In *State v. Gomez*, 126 Idaho 83, 86, 878 P.2d 782, 785 (1994), the court wrote: "*Idaho Code § 19-2406* sets forth the only bases for the grant of a new trial. Ineffective assistance of counsel is not included in that list. Thus, as previously noted by this Court, while a decision of whether to grant a new trial is a discretionary matter for the trial judge, *I.C. § 19-2406* limits the instances in which that discretion may be exercised. Only those grounds provided statutorily can support the grant of a new trial."

In this case, the defendant claims the Court erred in the manner it presented jury instructions. Such a claim is not one of the seven (7) reasons set forth by statute, nor can any reasonable argument be made that Defendant's claim fits into one of those reasons. As previously argued and shown, the jury verdict was based upon

overwhelming evidence and the verdict would not have been decided differently because of this claimed error that Defendant raised *five* months after trial but did not raise or contest at the time of trial.

Clearly based upon the evidence, the circumstances and the law, the Defendant has no bases for motioning for a new trial on the claim of an error by the Court is not valid.

CONCLUSION

Therefore, the Court should deny Defendant's Fourth Motion to Set Aside Verdict and his Fourth Motion for New Trial because the defendant has failed to demonstrate a violation of the Defendant's due process rights or an unfair trial, or prove that an error occurred during trial by the Court's allowance of Expert Witnesses testimony. The Defendant has failed to recognize that *Rule 34* of the Idaho Criminal Rules and *I.C. §19-2406* do not provide relief for this type of claim, and Defendant's failure to provide facts and authority to support that any error, even a harmless one, caused unfair prejudice to the defendant and would have resulted in a different outcome at trial.

WHEREFORE based upon the aforementioned bases and argument the State respectfully requests this Court to deny the Defendant's Fourth Motion to Set Aside the Verdict and to deny his Fourth Motion for a New Trial and proceed to sentencing on this matter.

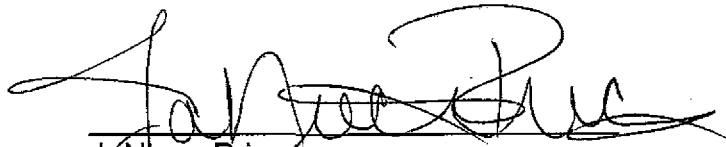
DATED this 31st day of October, 2014.


JANIECE PRICE
Asst. Chief Deputy Prosecuting Attorney

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY that on this 31st day of October, 2014, I caused a true and correct copy of the *foregoing Plaintiff's Response Brief Re: Defendant's Fourth Motion to Set Aside Verdict and Fourth Motion for New Trial* to be placed in and addressed to:

Kent Reynolds
Bannock County Public Defender's Office
Courthouse Mailbox – Public Defender's
Pocatello, ID 83205-6252



Janiece Price
Asst. Chief Deputy Prosecuting Attorney

RANDALL D. SCHULTHIES
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 OCT 31 PM 3:44
BY
DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO)

Plaintiff)

v.)

AMAN GAS,)

Defendant.)

Case No. CR-2014-00864-FE-A

NOTICE OF HEARING

**Monday, November 3, 2014
at 09:30 a.m.**

PLEASE TAKE NOTICE that the undersigned will bring a **FOURTH
MOTION TO SET ASIDE VERDICT AND FOURTH MOTION FOR NEW
TRIAL** before the **Honorable Stephen S. Dunn**, on **Monday, November 3, 2014**, at
09:30 a.m.

DATED this 31 day of October, 2014.




KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 31 day of October, 2014, I served a true and correct copy of the **NOTICE OF HEARING** was served upon the parties below as follows:

Bannock County Prosecutors
Prosecutor's in-box, room 220
Bannock County Courthouse
Pocatello, ID 83205

☒ Hand Deliver



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

FILED
BANNOCK COUNTY
DISTRICT OF THE COURT

2014 NOV -3 PM 3:06

BY [Signature]
DEPUTY CLERK

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN GAS,

Defendant.

MINUTE ENTRY & ORDER

On November 3, 2014, the above named Defendant appeared in Court with his counsel, Kent V. Reynolds, for a hearing on Defendant's Motions. JaNiece Price, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheri Nothelphim performed as Court Reporter for this proceeding.

At the outset, counsel for the Defendant requested a continuance and provided argument. The State objected to the request and provided argument.

IT IS HEREBY ORDERED that the Defendant shall appear for hearing on all pending Defendant's Motions on **MONDAY, NOVEMBER 17, 2014 AT THE HOUR OF 9:30 A.M.**

DATED November 3, 2014.

[Signature]

STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3 day of Nov, 2014, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

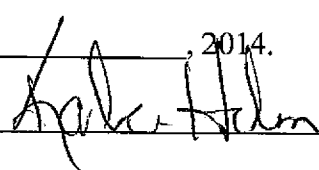
Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Bannock County Jail

☐ U.S. Mail
☐ Email
☒ Hand Deliver
☐ Facsimile

DATED this 3 day of Nov, 2014.


Deputy Clerk

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 NOV 20 PM 4: 03

BY KH
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register #CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN GAS,

Defendant.

ORDER FOR FURTHER PROCEEDINGS

On November 17, 2014, the above named Defendant appeared in Court with his counsel, Kent V. Reynolds, for a hearing on Defendant's pending motions. JaNiece Price, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

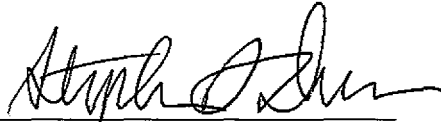
Sheri Nothelphim performed as Court Reporter for this proceeding.

Counsel for the Defendant requested a continuance in this matter and provided argument. The State objected to the continuance and provided argument.

IT IS HEREBY ORDERED that the above named Defendant appear before the undersigned Judge for FURTHER PROCEEDINGS on MONDAY, DECEMBER 1, 2014 AT THE HOUR OF 9:30 A.M. at the Bannock County Courthouse, Pocatello, Idaho. The Court requested that all

briefings and filings related to the pending motions be emailed to the Court for review prior to the hearing.

DATED November 19, 2014


STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20 day of Nov, 2014, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

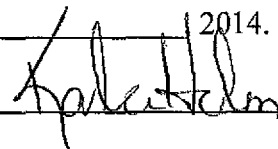
Bannock County Prosecutor

() U.S. Mail
(X) Email
() Hand Deliver
() Facsimile

Kent V. Reynolds
Bannock County Public Defender

() U.S. Mail
(X) Email
() Hand Deliver
() Facsimile

DATED this 20 day of Nov, 2014.


Deputy Clerk

COURT MINUTES

CR-2013-0000864-FE

State of Idaho vs. Aman F Gas

Hearing type: Motion

Hearing date: 12/1/2014

Time: 11:21 am

Judge: Stephen S Dunn

Courtroom: Room #301, Third Floor

Court reporter: Sheri Nothelphim

Minutes Clerk: Karla Holm

Tape Number:

Defense Attorney: Kent Reynolds

Prosecutor: JaNiece Price

-
- 1121 4 pending Motions; Def request continuance; Def has not received requested paperwork provided to him at the jail
- 1122 Court regarding investigator visiting Def at jail; Court advise argument will be held today; Reynolds to personally deliver paperwork to the Def; will have further hearing in necessary;
- 1124 Reynolds; Motion to Disqualify; argument;
- 1126 Motion to set aside verdict and motion for new trial; Reynolds
- 1138 State argument to all motions
- 1143 Court; Reynolds
- 1148 Court take under advisement until Def advises if he wants to make statement in writing or not;

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2014 DEC 10 PM 4:04
BY:
DEPUTY CLERK

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN GAS,

Defendant.

MINUTE ENTRY & ORDER

On December 1, 2014, the above named Defendant appeared in Court with his counsel, Kent V. Reynolds, for a hearing on all pending Defendant's Motions. JaNiece Price, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheri Nothelphim performed as Court Reporter for this proceeding.

At the outset, counsel for the Defendant requested a continuance in this matter due to the Defendant having not received the requested paperwork provided to him at the jail. The State objected to the continuance.

The Court advised that argument would be heard today. The Court ordered that counsel for the Defendant deliver requested documents to the Defendant personally.


The Court heard argument from counsel regarding the Defendant's Motions to Disqualify, Motions to Set Aside Verdict and Motions for New Trial.

The Court requested that counsel for the Defendant advise the Court if the Defendant wishes to submit a statement in writing.

Register CR-2013-00864-FE
MINUTE ENTRY & ORDER
Page 1

The Court advised that these Motions would be taken under advisement and a written decision shall be issued.

DATED December 10, 2014.



STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10 day of Dec, 2014, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Bannock County Jail

☐ U.S. Mail
☐ Email
☒ Hand Deliver
☐ Facsimile

DATED this 10 day of Dec, 2014.

Karl Helm
Deputy Clerk

RANDALL D. SCHULTHIES
Chief Public Defender
P.O. Box 4147
Pocatello, ID 83205-4147
(208) 236-7040
FAX (208) 236-7048

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

BANNOCK COUNTY
CLERK OF DISTRICT COURT
2014 DEC 11 PM 3:50
BY *KVL*
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-00864-FE-A
Plaintiff,)	
)	
v.	)	MOTION FOR O.R. RELEASE
	)	TO COURT SERVICES
AMAN GAS,)	
)	
Defendant.)	
_____)	

COMES NOW the Defendant, Aman Gas, by and through his Attorney, Kent V. Reynolds, of the Bannock County Public Defenders office, and moves this Court for an Order allowing the Defendant to be released on his own recognizance to Court Services.

Defendant is currently sitting on a thirty thousand (30,000) dollar bond.

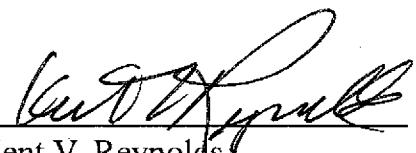
Oral argument is requested.

DATED this 10 day of December, 2014.


Kent V. Reynolds
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10 day of December, 2014, I served a true and correct copy of **MOTION FOR O.R. RELEASE TO COURT SERVICES** to the Bannock County Prosecutor by hand-delivery to the Prosecutor in-box in Room 220 of the Bannock County Courthouse, Pocatello, Idaho.


Kent V. Reynolds
Assistant Chief Deputy Public Defender

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2014 DEC 17 PM 2:03

BY KH
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN GAS,

Defendant.

MINUTE ENTRY & ORDER

On December 15, 2014, the above named Defendant appeared in Court with his counsel, Kent V. Reynolds, for a hearing on Defendant's Motion for O.R. Release to Court Services. Stephen F. Herzog, Bannock County Prosecuting Attorney, appeared on behalf of the State of Idaho.


Sheri Nothelphim performed as Court Reporter for this proceeding.

At the outset, counsel for the Defendant advised the Court that the Defendant did not wish to make or submit a statement regarding the pending motions. The Court advised that the pending motions would now be deemed submitted.

The Court heard argument from counsel for the Defendant regarding the Motion. The State objected to the Motion and provided argument.

The Court **DENIED** the Motion for O.R. Release to Court Services for the reasons stated on the record in open court.

DATED December 16, 2014.


STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17 day of Dec, 2014, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

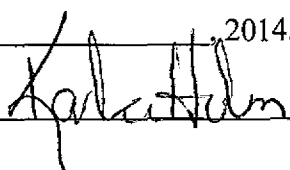
Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Bannock County Jail

☐ U.S. Mail
☐ Email
☒ Hand Deliver
☐ Facsimile


DATED this 17 day of Dec, 2014.


Deputy Clerk

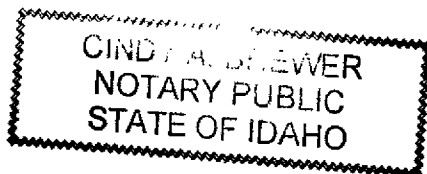
2015 JAN -6 PM 4:14
BY KIL
DEPUTY CLERK


2. That on January 5, 2015, the court had a discussion with counsel for the State, Ryan Godfrey and counsel for the Defendant, Kent Reynolds. During that discussion, the Court advised it could not locate Defendant's first discovery motion. As per the Court, Defendant was advised to submit another affidavit and attaching the discovery motion.
3. Attached hereto and incorporated herein by reference is Defendant's first discovery motion entitled "Discovery Motion." As per the filing stamp, the Discovery Motion was filed January 31, 2013.
4. It is interesting to note the ISTARs ROA does not contain a corresponding entry. This may explain why the Court has been unable to locate the filed motion.

DATED this 6 day of January, 2015.


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

SUBSCRIBED AND SWORN before me this 6th day of January, 2015.




NOTARY PUBLIC FOR IDAHO
Residing at Pocatello
My Commission Expires: 6/10/2016

**Fifth Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict and Motion for New Trial;
Amended Motion to Set Aside Verdict; Amended Motion for New Trial; Motion to Disqualify and Amended
Motion to Disqualify**

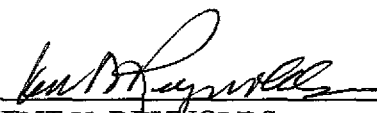
Page 2

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6 day of January, 2015, I served a true and correct copy of the **FIFTH AFFIDAVIT OF KENT V. REYNOLDS IN SUPPORT OF MOTION TO SET ASIDE VERDICT AND MOTION FOR NEW TRIAL; AMENDED MOTION TO SET ASIDE VERDICT; AMENDED MOTION FOR NEW TRIAL; MOTION TO DISQUALIFY AND AMENDED MOTION TO DISQUALIFY** upon the party below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
Bannock County Courthouse
Pocatello, Idaho 83205

☒ Hand Deliver
☐ First Class Mail
☐ Certified Mail
☐ Facsimile



KENT V. REYNOLDS
Deputy Public Defender

KROSS
RANDALL D. SCHULTHIES
Bannock County
Chief Public Defender
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
13 JAN 31 PM 4:11
BY _____
DEPUTY

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,

Plaintiff,

v.

AMAN F. GAS,

Defendant.

CASE NO. CR-2013-00864-FE

DISCOVERY MOTION

COMES NOW the Defendant, Aman F. Gas, by and through his attorney of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender, and pursuant to Rule 16 of the Idaho Criminal Rules submits the following requests for discovery:

1. Defendant requests that the Prosecutor disclose to defense counsel all material or information specified for automatic disclosure within the prosecutor's possession or control, or which thereafter comes within the prosecutor's possession or control, including material or information within the possession or control of the prosecutor's staff and/or others who have participated in the investigation or evaluation of this case who either regularly report, or with reference to this case have reported, to the office of the prosecutor. The items specified for automatic disclosure include the

Discovery Motion
Page - 1

following:

- a. All evidence which tends to negate the guilt of the accused in this offense.
- b. All evidence which would tend to reduce the punishment in this case.

2. Defendant provides this written request that the prosecutor disclose the following information, evidence and material to defense counsel:

- a. Any and all relevant statements of the defendant, written or recorded, and the substance of any relevant oral statement made by the defendant, made either before or after the defendant's arrest, to peace officer, prosecuting attorney, or the prosecuting attorney's agent.
- b. Any and all statements of a co-defendant, written or recorded, and the substance of any relevant oral statement made by a co-defendant, made either before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer, prosecuting attorney, or the prosecuting attorney's agent.
- c. Please provide a copy of the defendant's prior criminal record.
- d. Please list books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney, or to which the Prosecuting Attorney has access, or are intended for use for evidence at trial, or obtained from the Defendant.
- e. To permit the Defendant to inspect, copy or photograph books, papers, documents, photographs, tangible objects, buildings, places or copies or portions thereof which are in the possession, control or custody of the Prosecuting Attorney, or to which the Prosecuting Attorney has access, or are intended for use by the Prosecuting Attorney as evidence a trial, or

obtained from the Defendant.

f. Please provide a list of and permit the defendant to inspect, copy or photograph the results or reports of any physical or mental examinations, scientific tests or experiments made in connection with this case, or copies thereof, within the possession, custody or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence.

g. Please furnish to the defendant a written list of the names and addresses, and all telephone or cell phone of whatsoever nature of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses.

h. Please furnish statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case.

i. Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and data for those opinions, and the expert witness's qualifications pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence.

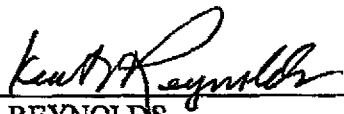
j. Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

k. Any and all statements from conversations between the Defendant and any

third person, which may have been intercepted through telephone monitoring, visitation monitoring, or any other means, during any time that the Defendant was incarcerated at the Bannock County Jail, or any other detention facility.

Defendant further provides notice that the State, pursuant to Rule 16 of the Idaho Criminal Rules, has a continuing duty to supplement discovery responses and has a duty to exercise due diligence in the gathering and discovering of the evidence requested.

Dated this 31 day of January, 2013.



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 31 day of January, 2013, I served a true and correct copy of the **DISCOVERY MOTION** upon the parties below as follows:

Bannock County
Prosecuting Attorney
Prosecutor's in-box, Room 220
County Courthouse
Pocatello, Idaho 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail Bannock
<input type="checkbox"/>	Facsimile


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

State of Idaho vs. Aman F Gas

Date	Code	User	Judge
1/22/2013	LOCT	DENAP	Karla / Judge Dunn
	NCRF	DENAP	New Case Filed-Felony
	PROS	DENAP	Prosecutor Assigned JaNiece Price
	CRCO	DENAP	Criminal Complaint- I Count of RAPE, Idaho Code 18-6101(4)
	AFPC	DENAP	Affidavit Of Probable Cause/ PPD Incident Report 13-P01084/\$30,000.00 Request For Bond.
	ORDR	DENAP	Probable Cause Minute Entry And Order-Probable Cause Determined, Defendant Remain In Custody With \$30,000 Bond Set. /s/ Clark 01/22/2013
	HRSC	DENAP	Hearing Scheduled (Arraignment 01/22/2013 01:15 PM)
	ARRN	KIM	Hearing result for Arraignment scheduled on 01/22/2013 01:15 PM: Arraignment / First Appearance
	ORPD	KIM	Defendant: Gas, Aman F Order Appointing Public Defender Public defender Randall D Schulthies
	BOND	KIM	Bond Set at 30000.00
	NCCO	KIM	No Contact Order Issued
	HRSC	KIM	Hearing Scheduled (Preliminary Hearing 02/05/2013 09:30 AM)
		KIM	Order to Attend Preliminary Hearing
	ORDR	JOYLYNN	No Contact Order: Order Comment: NO CONTACT ORDER ISSUED Expiration Days: 365 Expiration Date: 1/22/2014
2/5/2013	PHHD	KIM	Hearing result for Preliminary Hearing scheduled on 02/05/2013 09:30 AM: Preliminary Hearing Held
	BOUN	KIM	Bound Over (after Prelim)
2/7/2013	HRSC	DCANO	Hearing Scheduled (Arraignment 02/11/2013 09:30 AM)
		DCANO	Prosecuting Attorney's Information (2) charge, "Rape" IC 18-6101(6)(a) and/or (b)."
	BOND	DCANO	Bond Set - \$30,000.00 In Custody
2/11/2013	PLEA	KARLA	Plea is entered for charge: - NG (18-6101(4) Rape-Resists but Resistance is Overcome by Force or Violence)
2/12/2013		CINDYBF	Motion for Bond Reduction- by DA Reynolds.
2/13/2013	ARRN	KARLA	Hearing result for Arraignment scheduled on 02/11/2013 09:30 AM: Arraignment / First Appearance

State of Idaho vs. Aman F Gas

Date	Code	User		Judge
2/13/2013	ORPD	KARLA	Order Appointing Public Defender Kent V Reynolds	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Pre-trial Conference 05/06/2013 04:00 PM)	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Jury Trial 05/21/2013 09:00 AM)	Stephen S Dunn
	DISC	CINDYBF	Request for Discovery- by PA Price.	Stephen S Dunn
		CINDYBF	Response to Request for Discovery- by PA Price.	Stephen S Dunn
2/19/2013	TRAN	LINDAL	Transcript Filed 2/5/2013 preliminary hearing	Stephen S Dunn
3/4/2013	MOTN	BRANDY	Second Discovery Motion; dfdt aty	Stephen S Dunn
3/11/2013		CINDYBF	Response to Second Discovery Motion- by PA Price.	Stephen S Dunn
5/8/2013	MOTN	BRANDY	Motion to continue; at yfor State	Stephen S Dunn
	HRSC	BRANDY	Hearing Scheduled (Motion 05/13/2013 09:30 AM); notice of hearing	Stephen S Dunn
5/10/2013	HRHD	KARLA	Hearing result for Pre-trial Conference scheduled on 05/06/2013 04:00 PM: Hearing Held	Stephen S Dunn
5/14/2013	DCHH	KARLA	Hearing result for Motion scheduled on 05/13/2013 09:30 AM: District Court Hearing Held Court Reporter: Sheri Turner Number of Transcript Pages for this hearing estimated: less 100	Stephen S Dunn
	CONT	KARLA	Continued (Jury Trial 06/18/2013 09:00 AM)	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Pre-trial Conference 06/03/2013 04:00 PM)	Stephen S Dunn
	MEOR	KARLA	Minute Entry and Order; Court Grant State Motion to Continue; reset trl and pretrial; /s J Dunn 05/13/13	Stephen S Dunn
5/21/2013	MOTN	BRANDY	Motion for OR Release or in the Alternative a Bond Reduction; dfdt aty	Stephen S Dunn
5/24/2013	NOTC	BRANDY	Notice of hearing; dfdt aty	Stephen S Dunn
5/31/2013	HRSC	KARLA	Hearing Scheduled (Motion 06/03/2013 09:30 AM)	Stephen S Dunn
6/6/2013	DCHH	KARLA	Hearing result for Motion scheduled on 06/03/2013 09:30 AM: District Court Hearing Held Court Reporter: Sheri Turner Number of Transcript Pages for this hearing estimated: less 100	Stephen S Dunn
	HRHD	KARLA	Hearing result for Pre-trial Conference scheduled on 06/03/2013 04:00 PM: Hearing Held	Stephen S Dunn

State of Idaho vs. Aman F Gas

Date	Code	User	Judge
6/6/2013	MEOR	KARLA	Minute Entry and Order; court deny Motion for Release or Bond Reduction; /s J Dunn 06/04/13
6/7/2013	CONT	KARLA	Continued (Jury Trial 07/16/2013 09:00 AM)
	HRSC	KARLA	Hearing Scheduled (Pre-trial Conference 07/01/2013 04:00 PM)
6/12/2013	MOTN	KARLA	Motion for DNA testing (Reynolds)
6/14/2013	HRSC	KARLA	Hearing Scheduled (Motion 06/17/2013 09:30 AM)
	RESP	BRANDY	First Supplemental Response to discovery request; aty for State
6/19/2013	DCHH	KARLA	Hearing result for Motion scheduled on 06/17/2013 09:30 AM: District Court Hearing Held Court Reporter: Sheri Turner Number of Transcript Pages for this hearing estimated: less 100
	MEOR	KARLA	Minute Entry and Order; Def withdraw Motion; /s J Dunn 06/18/13
7/2/2013	MOTN	BRANDY	Motion to continue jury trial; aty for State
	NOTC	BRANDY	Notice of hearing; aty for State
	HRSC	BRANDY	Hearing Scheduled (Motion 07/08/2013 09:30 AM)
7/10/2013	DCHH	KARLA	Hearing result for Motion scheduled on 07/08/2013 09:30 AM: District Court Hearing Held Court Reporter: Sheri Turner Number of Transcript Pages for this hearing estimated: less 100
	HRHD	KARLA	Hearing result for Pre-trial Conference scheduled on 07/01/2013 04:00 PM: Hearing Held
	CONT	KARLA	Continued (Jury Trial 08/20/2013 09:00 AM)
	HRSC	KARLA	Hearing Scheduled (Pre-trial Conference 08/05/2013 04:00 PM)
	MEOR	KARLA	Minute Entry and Order; Court grant State Motion to Continue; reset trial and pretrial; /s J Dunn 07/09/13
8/9/2013	HRHD	KARLA	Hearing result for Pre-trial Conference scheduled on 08/05/2013 04:00 PM: Hearing Held
	HRSC	KARLA	Hearing Scheduled (Motion 08/12/2013 09:30 AM)
8/14/2013	CONT	KARLA	Continued (Jury Trial 09/17/2013 09:00 AM)
	HRSC	KARLA	Hearing Scheduled (Pre-trial Conference 09/03/2013 04:00 PM)

State of Idaho vs. Aman F Gas

Date	Code	User	Judge
8/14/2013	DCHH	KARLA	Hearing result for Motion scheduled on 08/12/2013 09:30 AM: District Court Hearing Held Court Reporter: Sheri Turner Number of Transcript Pages for this hearing estimated: less 100
	MEOR	KARLA	Minute Entry and Order; Court grant State Motion to Continue Trial; reset trial and pretrial; /s J Dunn 08/13/13
	MOTN	KARLA	Motion to Continue Jury Trial (Price for State)
	NOTC	KARLA	Notice of Hearing for Motion to Continue Jury Trial
9/6/2013	HRHD	KARLA	Hearing result for Pre-trial Conference scheduled on 09/03/2013 04:00 PM: Hearing Held
	HRSC	KARLA	Hearing Scheduled (Motion 09/09/2013 09:30 AM)
9/9/2013	RESP	BRANDY	Second Supplemental Response to Discovery Request; aty for State
9/11/2013	MOTN	BRANDY	Motion for payment of expert witnesses fees from district court fund; dfdt aty
9/17/2013	CONT	KARLA	Continued (Jury Trial 11/19/2013 09:00 AM)
	HRSC	KARLA	Hearing Scheduled (Pre-trial Conference 11/04/2013 04:00 PM)
9/18/2013	DCHH	KARLA	Hearing result for Motion scheduled on 09/16/2013 09:30 AM: District Court Hearing Held Court Reporter: Sheri Turner Number of Transcript Pages for this hearing estimated: less 100
	MEOR	KARLA	Minute Entry and Order; Counsel to submit identity of witness and estimates of costs to court; under advisement; /s J Dunn 09/17/13
9/20/2013	MOTN	BRANDY	Second discovery Motion; dfdt aty
9/23/2013	MOTN	BRANDY	Third Discovery Motion; dfdt aty
9/25/2013	RESP	BRANDY	Second Response to Discovery Motion; aty for State
10/30/2013	RESP	BRANDY	Response to third discovery request; aty for State
11/8/2013	HRHD	KARLA	Hearing result for Pre-trial Conference scheduled on 11/04/2013 04:00 PM: Hearing Held
	CONT	KARLA	Continued (Jury Trial 01/21/2014 09:00 AM)
	HRSC	KARLA	Hearing Scheduled (Pre-trial Conference 01/06/2014 04:00 PM)
1/10/2014	HRHD	KARLA	Hearing result for Pre-trial Conference scheduled on 01/06/2014 04:00 PM: Hearing Held

State of Idaho vs. Aman F Gas

Date	Code	User		Judge
1/10/2014	CONT	KARLA	Continued (Jury Trial 03/18/2014 09:00 AM)	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Pre-trial Conference 03/03/2014 04:00 PM)	Stephen S Dunn
2/19/2014	MOTN	BRANDY	Motion to suppress; dfdt aty	Stephen S Dunn
2/20/2014	MOTN	BRANDY	Fourth Discovery Motion; dfdt aty	Stephen S Dunn
2/21/2014	RESP	BRANDY	Second Response to Discovery Motion; dfdt aty	Stephen S Dunn
	RESP	BRANDY	First Response to discovery request; dfdt aty	Stephen S Dunn
2/28/2014	MOTN	BRANDY	Motion to continue trial; dfdt aty	Stephen S Dunn
3/3/2014	MOTN	BRANDY	Fifth Discovery Motion; dfdt aty	Stephen S Dunn
3/5/2014	OBJT	KARLA	Objection to Defendant's Motion to Suppress (Price for State)	Stephen S Dunn
3/11/2014	CONT	KARLA	Continued (Jury Trial 05/20/2014 09:00 AM)	Stephen S Dunn
	CONT	KARLA	Continued (Pre-trial Conference 05/05/2014 04:00 PM)	Stephen S Dunn
3/18/2014	ILET	JOYLYNN	No Contact Order Removed From Ilets. It expired 01/22/14. I sent an email to Karla letting her know it expired and would need to be re-issued if the Judge wants one in place.	Stephen S Dunn
3/21/2014	NOTC	BRANDY	Notice of hearing; dfdt aty	Stephen S Dunn
		CINDYBF	Sixth Discovery Motion- by DA Reynolds.	Stephen S Dunn
	ORDR	JOYLYNN	No Contact Order: Order Comment: 03/21/14 - NCO RE-ISSUED Expiration Days: 365 Expiration Date: 3/21/2015	Stephen S Dunn
3/31/2014	RESP	BRANDY	Response to fifth discovery request; aty for State	Stephen S Dunn
4/4/2014	HRSC	KARLA	Hearing Scheduled (Motion to Suppress 04/09/2014 03:00 PM)	Stephen S Dunn
4/10/2014	RESP	KARLA	Response to Fourth Discovery Request (Price for State)	Stephen S Dunn
4/11/2014	DCHH	KARLA	Hearing result for Motion to Suppress scheduled on 04/09/2014 03:00 PM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100	Stephen S Dunn
	MEOR	KARLA	Minute Entry and Order; Def Motion to suppress; briefing schedule; matter will then be taken under advisement; /s J Dunn 04/11/14	Stephen S Dunn
4/14/2014	RESP	KARLA	Response to Sixth Discovery Request (Price for State)	Stephen S Dunn
4/16/2014	MOTN	KARLA	First Motion to Compel (Reynolds for Def)	Stephen S Dunn
	RESP	KARLA	Third Response to Discovery Request (Reynolds for def)	Stephen S Dunn

State of Idaho vs. Aman F Gas

Date	Code	User		Judge
4/16/2014	RESP	KARLA	Third Supplemental Response to Discovery Request (Price for State)	Stephen S Dunn
4/18/2014	STIP	KARLA	Additional Stipulation of the Parties rd; Motion to Suppress and the Admission of Additional Evidence (Reynolds for Def; Price for State)	Stephen S Dunn
4/21/2014	MOTN	KARLA	Motion to Quash Subpoena Duces Tecum (Price for State)	Stephen S Dunn
	BRFS	KARLA	Brief in Support of Motion to Suppress (Reynolds for Def)	Stephen S Dunn
4/24/2014	HRSC	KARLA	Hearing Scheduled (Motion 04/28/2014 09:30 AM)	Stephen S Dunn
	RESP	KARLA	Fourth Response to Discovery Request (Reynolds for Def)	Stephen S Dunn
4/28/2014	RESP	KARLA	Plaintiff's Response Brief in Opposition to Defendant's Motion to Suppress (Price for State)	Stephen S Dunn
4/30/2014	DCHH	KARLA	Hearing result for Motion scheduled on 04/28/2014 09:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100	Stephen S Dunn
	MEOR	KARLA	Minute Entry and Order; Court deny State's Motion to quash subpoena duces tecum; /s J Dunn 04/28/14	Stephen S Dunn
5/1/2014	DISC	KARLA	Sixth Discovery Motion (Reynolds for Def)	Stephen S Dunn
	DISC	KARLA	Eighth Discovery Motion (Reynolds for def)	Stephen S Dunn
5/2/2014	NOTC	KARLA	Notice of Alibi Defense (Reynolds for Def)	Stephen S Dunn
5/5/2014	RESP	KARLA	Sixth Response to Discovery Request (Reynolds for Def)	Stephen S Dunn
	RESP	KARLA	Fifth Response to Discovery Request (Reynolds for Def)	Stephen S Dunn
5/6/2014	ORDR	KARLA	Order Denying Defendant's Motion to Suppress /s J Dunn 05/05/14	Stephen S Dunn
	MOTN	KARLA	Ninth Discovery Motion (Reynolds for Def)	Stephen S Dunn
		KARLA	Defendant's First Witnesses List (Reynolds)	Stephen S Dunn
	RESP	KARLA	Response to Sixty Discovery Request **Supplemental** (Price for State)	Stephen S Dunn
5/7/2014	HRHD	KARLA	Hearing result for Pre-trial Conference scheduled on 05/05/2014 04:00 PM: Hearing Held	Stephen S Dunn
	MOTN	KARLA	First Motion in Limine (Reynolds)	Stephen S Dunn
	RESP	KARLA	Seventh Response to Discovery Request (Reynolds)	Stephen S Dunn
		KARLA	Defendant's Second Witnesses List (Reynolds)	Stephen S Dunn

State of Idaho vs. Aman F Gas

Date	Code	User		Judge
5/8/2014	MOTN	KARLA	Second Motion in Limine (Reynolds)	Stephen S Dunn
	RESP	KARLA	Eighth Response to Discovery Request (Reynolds)	Stephen S Dunn
5/9/2014	CONT	KARLA	Continued (Jury Trial 05/19/2014 01:00 PM)	Stephen S Dunn
	ORDR	KARLA	Order regarding jury trial /s J Dunn 05/09/14	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Motion 05/12/2014 09:30 AM)	Stephen S Dunn
	NOTC	KARLA	Notice of Hearing; Def 1st and 2nd Motions in Limine (Reynolds for Def)	Stephen S Dunn
	RESP	KARLA	Response to Eighth Discovery Request (Price for State)	Stephen S Dunn
	RESP	KARLA	Response to Ninth Discovery Request (Price for State)	Stephen S Dunn
		KARLA	Defendant's Third Witnesses List (Reynolds for Def)	Stephen S Dunn
		KARLA	Defendant's First Exhibit List (Reynolds for Def)	Stephen S Dunn
	RESP	KARLA	Ninth Response to Discovery Request (Reynolds for Def)	Stephen S Dunn
	RESP	KARLA	Tenth Response to Discovery Request (Reynolds for Def)	Stephen S Dunn
		KARLA	Defendant's First Set of Requested Jury Instructions (Reynolds for Def)	Stephen S Dunn
	MOTN	KARLA	Third Motion in Limine (Reynolds for Def)	Stephen S Dunn
5/12/2014		KARLA	Offer of Proof in Support of Third Motion in Limine (Reynolds for Def)	Stephen S Dunn
		KARLA	State's Exhibit List (Price for State)	Stephen S Dunn
		KARLA	State's Witness List (Price for State)	Stephen S Dunn
5/14/2014		KARLA	Plaintiff's Requested Jury Instructions (Price for State)	Stephen S Dunn
	MEOR	KARLA	Minute Entry and Order; Court deny Def First Motion in Limine; Court reserved ruling of Def 2nd Motion in Limine until after viewing photographs; Court reserve ruling of Def 3rd Motion in Limine until trial; Court grant Motion for Def to appear in street clothes; /s J Dunn 05/13/14	Stephen S Dunn
	DCHH	KARLA	Hearing result for Motion scheduled on 05/12/2014 09:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100	Stephen S Dunn
	RESP	KARLA	Response to Seventh Discovery Request (Reynolds for Def)	Stephen S Dunn

State of Idaho vs. Aman F Gas

Date	Code	User		Judge
5/14/2014	MOTN	KARLA	Motion to Take Witnesses Testimony out of Order (Reynolds for Def)	Stephen S Dunn
5/15/2014	MOTN	KARLA	Second Motion to Take Witnesses Testimony Out of Order (Reynolds for Def)	Stephen S Dunn
	RESP	KARLA	Eleventh Response to Discovery Request (Reynolds for Def)	Stephen S Dunn
		KARLA	Defendant's Second Set of Requested Jury Instructions (Reynolds)	Stephen S Dunn
5/16/2014		KARLA	Defendant's Second Exhibit List (Reynolds for Def)	Stephen S Dunn
	OBJT	KARLA	Defendant's Objection to State's Proposed Exhibits and Courts Proposed Post-Proof Jury Instructions (Reynolds)	Stephen S Dunn
	RESP	KARLA	Amended Twelfth Response to Discovery Request (Reynolds)	Stephen S Dunn
		KARLA	Defendant's Notice of Withdrawal of Requested Jury Instructions (Reynolds)	Stephen S Dunn
	NOTC	KARLA	Notice of Hearing (Motion to Disqualify) 05/19/14 @ 9:30 (Reynolds)	Stephen S Dunn
	NOTC	KARLA	Notice of Hearing (Second Motion to Compel) 05/19/14 @ 9:30	Stephen S Dunn
	NOTC	KARLA	Notice of Hearing (Fourth Motion in Limine) 05/19/14 @ 9:30	Stephen S Dunn
	MOTN	KARLA	Second Motion to Compel (Reynolds)	Stephen S Dunn
	MOTN	KARLA	Fourth Motion in Limine (Reynolds)	Stephen S Dunn
	MOTN	KARLA	Motion to Disqualify (Reynolds)	Stephen S Dunn
	MOTN	KARLA	State's First Motion in Limine (Price)	Stephen S Dunn
	NOTC	KARLA	Notice of Hearing; State's First Motion in Limine; (Price)	Stephen S Dunn
	MOTN	KARLA	State's Second Motion in Limine (Price for State)	Stephen S Dunn
	NOTC	KARLA	Notice of Hearing (State Second Motion in Limine)	Stephen S Dunn
5/19/2014	HRSC	KARLA	Hearing Scheduled (Motion 05/19/2014 09:30 AM)	Stephen S Dunn
	AFFD	KARLA	Affidavit of Service of Subpoena upon Abdulah Alsdhehab	Stephen S Dunn
	AFFD	KARLA	Affidavit of Service of Subpeona Upon Monique Hamblin	Stephen S Dunn
5/20/2014	HRSC	KARLA	Hearing Scheduled (Jury Trial 05/20/2014 09:00 AM)	Stephen S Dunn

State of Idaho vs. Aman F Gas

Date	Code	User	Judge
5/20/2014	DCHH	KARLA	Hearing result for Jury Trial scheduled on 05/19/2014 01:00 PM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: 160
	DCHH	KARLA	Hearing result for Motion scheduled on 05/19/2014 09:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100
	MOTN	KARLA	Motion to Move Trial (Reynolds)
5/21/2014	HRSC	KARLA	Hearing Scheduled (Jury Trial 05/21/2014 08:30 AM)
	DCHH	KARLA	Hearing result for Jury Trial scheduled on 05/20/2014 09:00 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: 350
	HRSC	KARLA	Hearing Scheduled (Jury Trial 05/22/2014 08:30 AM)
5/22/2014		KARLA	Jury Instructions
		KARLA	Verdict
5/23/2014	DCHH	KARLA	Hearing result for Jury Trial scheduled on 05/22/2014 08:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: 255
	DCHH	KARLA	Hearing result for Jury Trial scheduled on 05/21/2014 08:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: 285
	MEOR	KARLA	Minute Entry and Order; Jury Trial held; panel sworn; voir dire; peremptory challenges; Jurors sworn; opening statements; witness testimony; exhibits presented; closing argument; deliberations; verdict; Not guilty of Rape; Guilty of Lesser Included "Battery with Intent to Commit Rape; polling of jury; PSI ordered; sentencing set; remanded; jury discharged; /s J Dunn 05/23/14
	HRSC	KARLA	Hearing Scheduled (Sentencing 07/14/2014 09:30 AM)

State of Idaho vs. Aman F Gas

Date	Code	User		Judge
5/30/2014	REDU	KARLA	Charge Reduced Or Amended (118-911 Battery With Intent to Commit a Serious Felony)	Stephen S Dunn
	MOTN	KARLA	Motion for Preparation of Trial Transcript and Motion for Trial Recording (Reynolds for Def)	Stephen S Dunn
	MOTN	KARLA	Motion to Set Aside Verdict and Motion for New Trial (Reynolds)	Stephen S Dunn
	MOTN	KARLA	Motion to Continue Sentencing (Reynolds)	Stephen S Dunn
6/10/2014	NOTC	KARLA	Notice of Scope of Case Transcript Preparation (Reynolds)	Stephen S Dunn
6/11/2014	STIP	KARLA	Stipulation of the Parties Re; Preparation of Case Transcript (Price; Reynolds)	Stephen S Dunn
6/12/2014	ORDR	KARLA	Order for Preparation of Case Transcript /s J Dunn 06/12/14	Stephen S Dunn
	NOTC	KARLA	Notice of Scope of Case Transcript Report (Reynolds)	Stephen S Dunn
6/20/2014	HRSC	KARLA	Hearing Scheduled (Motion 06/23/2014 09:30 AM)	Stephen S Dunn
6/27/2014	DCHH	KARLA	Hearing result for Motion scheduled on 06/23/2014 09:30 AM: District Court Hearing Held Court Reporter: sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100	Stephen S Dunn
7/2/2014	CONT	KARLA	Hearing result for Sentencing scheduled on 07/14/2014 09:30 AM: Continued	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Further Proceedings 08/18/2014 09:30 AM)	Stephen S Dunn
	MEOR	KARLA	Minute Entry and Order; Court continue sentencing; further proceedings set 08/18/14 /s J Dunn 07/01/14	Stephen S Dunn
7/25/2014	STIP	KARLA	Stipulation of the Parties to Extend Briefing Schedule (Reynolds; Price)	Stephen S Dunn
7/29/2014	ORDR	KARLA	Order Extending Briefing Schedule /s J Dunn 07/29/14	Stephen S Dunn
8/13/2014	AFFD	KARLA	Third Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict and Motion for New Trial; Amended Motion to Set Aside Verdict; Amended Motion for New Trial; Motion to Disqualify and Amended Motion to Disqualify Kent v. Reynolds; (Reynolds)	Stephen S Dunn
	AFFD	KARLA	2nd Affidavit of Kent v. Reynolds in Support of Motion to Set Aside Verdict and Motion for New Trial; Amended Motion to Set Aside Verdict; Amended Motion for New Trial; Motion to Disqualify and Amended Motion to Disqualify Kent V. Reynolds (Reynolds)	Stephen S Dunn

State of Idaho vs. Aman F Gas

Date	Code	User	Judge
8/13/2014	AFFD	KARLA	1st Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict and Motion for New Trial; Amended Motion to Set Aside Verdict and Amended Motion for New Trial; Motion to Disqualify and Amended Motion to Disqualify (Reynolds)
	AFFD	KARLA	Affidavit of Lindsey Blake
8/14/2014	HRVC	KARLA	Hearing result for Further Proceedings scheduled on 08/18/2014 09:30 AM: Hearing Vacated
	BRFS	KARLA	Brief In Support of Motion to Set Aside Verdict and Motion for New Trial; amdned Motion to Set Aside Verdict and Motion for New Trial and Motion for Disqualification; (Reynolds)
8/15/2014	AFFD	KARLA	Affidavit of Kent Reynolds Re; Suppress Hearing Recording
	MOTN	KARLA	Motion Re; fourth Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict...RE; Photos and Motion to Strike Kent Reynolds from teh Title of the SEcond and thired Affidavits or to Substitute the Title Page and Have it Deemed Filed on August 13, 2014; (Reynolds)
8/22/2014	HRSC	KARLA	Hearing Scheduled (Motion 08/25/2014 09:30 AM)
8/27/2014	DCHH	KARLA	Hearing result for Motion scheduled on 08/25/2014 09:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100
	MEOR	KARLA	Minute Entry and Order; Court grant Motion to Strike Kent Reynolds from title of second and Third Affidavits; photos not allowed at trial to be added to file in seperate envelope; /s J Dunn 08/27/14
	STIP	KARLA	Stipulation tp Extnded State's Response Brief Deadline (Price; REynolds)
8/29/2014	ORDR	KARLA	Order to Extnded State's Response Brief Deadline /s J Dunn 08/28/14
9/11/2014	RESP	KARLA	Plaintiff's Response Brief Re; Defendants Motion to Set Aside Verdict and Motion forNew Trial; and Motion for Disqualification (Price for State)
9/25/2014	MOTN	KARLA	Second Motion to Set Aside Verdict and Second Motion for New Trial (Reynolds)
	BRFS	KARLA	Brief in Support of Second Motion to Set Aside Verdict and Second Motion for New Trial (Reynolds)

State of Idaho vs. Aman F Gas

Date	Code	User		Judge
10/7/2014	RESP	KARLA	Plaintiff's Response Brief Re; Defendant's Second Motion to Set Aside Verdict and Motion for New Trial (Price)	Stephen S Dunn
10/21/2014	MOTN	KARLA	Third Motion to Set Aside Verdict and Third Motion for New Trial (Reynolds)	Stephen S Dunn
10/28/2014	RESP	KARLA	Plaintiff's Response Brief Re; Defendant's Third Motion to Set Aside Verdict and Motion for New Trial (Price)	Stephen S Dunn
10/30/2014	HRSC	KARLA	Hearing Scheduled (Motion 11/03/2014 09:30 AM)	Stephen S Dunn
	MOTN	KARLA	Fourth Motion to Set Aside Verdict and Fourth Motion for New Trial (REynolds)	Stephen S Dunn
10/31/2014	RESP	KARLA	Plaintiff's Response Brief Re; Defendant's Fourth Motion to Set Aside Verdict and Motion for New Trial (State)	Stephen S Dunn
11/3/2014	DCHH	KARLA	Hearing result for Motion scheduled on 11/03/2014 09:30 AM: District Court Hearing Held Court Reporter: Number of Transcript Pages for this hearing estimated:	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Motion 11/17/2014 09:30 AM)	Stephen S Dunn
	MEOR	KARLA	Minute Entry and Order; Def request continuance; State objects; Court reset to 11/17/14;s / Jdunn 11/03/14	Stephen S Dunn
11/19/2014	DCHH	KARLA	Hearing result for Motion scheduled on 11/17/2014 09:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100	Stephen S Dunn
	MEOR	KARLA	Minute Entry and Order; Def request continuance; State objection; Reset for 12/01/14; /s J Dunn 11/19/14	Stephen S Dunn
	HRSC	KARLA	Hearing Scheduled (Motion 12/01/2014 09:30 AM)	Stephen S Dunn
12/10/2014	DCHH	KARLA	Hearing result for Motion scheduled on 12/01/2014 09:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100	Stephen S Dunn
	MEOR	KARLA	Minute Entry and Order; Court hear argument on pending motions; Court take under advisement; s/ J Dunn 12/10/14	Stephen S Dunn

State of Idaho vs. Aman F Gas

Date	Code	User	Judge
12/11/2014	HRSC	KARLA	Hearing Scheduled (Motion 12/15/2014 09:30 AM)
	MOTN	KARLA	Motion for OR Release to Court Services (Reynolds)
12/17/2014	DCHH	KARLA	Hearing result for Motion scheduled on 12/15/2014 09:30 AM: District Court Hearing Held Court Reporter: Sheri Nothelphim Number of Transcript Pages for this hearing estimated: less 100
	MEOR	KARLA	Minute Entry and Order; Court deny Motion for OR Release to Court Services; s/ J Dunn 12/16/14

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KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

2015 JAN 12 PM 4:00
BY Kil
DEPUTY CLERK

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-00864-FE-A
Plaintiff,)	
)	
v.	)	MOTION FOR TRANSCRIPTS
)	
AMAN GAS,)	
)	
_____)	
Defendant)	

COMES NOW the Defendant, Aman Gas, by and through his Court appointed counsel,
Kent V. Reynolds, Assistant Chief Deputy Public Defender and moves for preparation of the
transcript for the following court dates:

May 13, 2013

June 3 and 17, 2013

July 8, 2013

August 12, 2013

September 16, 2013

April 28, 2014

May 12, 2014

June 23, 2014

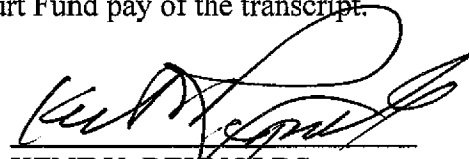
August 25, 2014

November 3 and 17, 2014

December 1 and 15, 2014

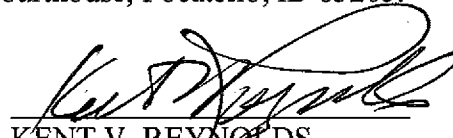
Defendant is requesting that the District Court Fund pay of the transcript.

DATED this 12 day of January, 2015.


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 12 day of January, 2015, I served a true and correct copy of the **MOTION FOR TRANSCRIPTS** upon the Bannock County Prosecutor, Prosecutor's in-box, Room 220, Bannock County Courthouse, Pocatello, ID 83205.


KENT V. REYNOLDS

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2015 JAN 23 AM 10:11

BY [Signature]
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register #CR-2013-00864-FE

STATE OF IDAHO

Plaintiff,

-vs-

AMAN FARAH GAS,

Defendant.

)
)
) MEMORANDUM DECISION AND ORDER
) ON DEFENDANT'S MOTIONS TO SET
) ASIDE VERDICT, MOTIONS FOR NEW
) TRIAL, AND MOTION TO DISQUALIFY
)
)
)
)
)
)
)

This case comes before the Court on Defendant's several Motions to Set Aside Verdict and for New Trial and to Disqualify the Court. The Defendant's initial Motion to Set Aside Verdict and for New Trial was filed on May 30, 2014. This was within the 14 day requirements of I.C.R. 34, but the Motion itself did not list any specific issues raised. By stipulation of the parties and further order of the Court, the Court allowed additional time for briefing the issues to be raised in the initial motions. This included the time requested to seek and obtain a transcript of the trial. *See Minute Entry & Order* dated July 2, 2014. Ultimately, Defendant filed his initial brief in support of the initial motions on August 13, 2014. As best the Court can determine from a review of filed documents, this pleading was also designated by the Defendant as an Amended Motion to Set Aside Verdict and Motion for New Trial. It is unclear why this was designated an

Amended Motion, but the initial and Amended Motion are collectively hereafter referred to as the "First Motion". Perhaps the Amended Motion was designated as such because this was the first time Defendant actually asserted some grounds for his Motions. In the First Motion the Defendant raised a number of issues.¹

It appears to the Court that the brief submitted on August 13, 2014 was also the first time, post-trial, that the Defendant asserted a Motion to Disqualify the Court for cause.² The State responded to the First Motion and the Motion to Disqualify on September 11, 2014.

On September 25, 2014 Defendant filed a Second Motion to Set Aside Verdict and a Second Motion for New Trial ("Second Motion").³ The State responded to the Second Motion on October 7, 2014.

On October 21, 2014 the Defendant filed a Third Motion to Set Aside Verdict and a Third Motion for New Trial ("Third Motion").⁴ The State responded to the Third Motion on October 28, 2014, contending that this Motion was untimely and also responding on the merits.

¹ First Motion, starting at p. 7. The letter and number designations of the various issues raised in the First Motion are inconsistent and confusing. Therefore, the Court will simply refer to the individual issues raised regardless of how they are numbered in the First Motion, as follows: 1) ruling on the admission of certain hospital photographs; 2) an alleged biased jury panel; 3) "Batson" jury challenge; 4) allowing the testimony of State expert witnesses Femreite and Nowlin; 5) giving an included offense instruction for "battery with intent to commit rape;" 6) failing to instruction on misdemeanor battery; 7) "multiple criminal episodes" challenge to the included offense instruction for "battery with intent to commit rape;" 8) "variance" challenge to the included offense instruction for "battery with intent to commit rape;" 9) "inconsistent rulings" challenge to the admission of the testimony of State expert witnesses Femreite and Nowlin; 10) further "abuse of discretion" challenge to the admission of the testimony of State expert witnesses Femreite and Nowlin; 11) further "anticipated testimony" challenge to the admission of the testimony of State expert witnesses Femreite and Nowlin; 12) further "clerical mistake" challenge to the admission of the testimony of State expert witnesses Femreite and Nowlin; 13) insufficiency of the evidence to support the verdict based on (a) alibi evidence, (b) fingernail and penile DNA evidence, (c) timing of the crime evidence; (14) accumulation of errors contention. Obviously, several of these issues concern the same matters. Each will be addressed below, some in a combined way, but not necessarily in the same order raised by the Defendant.

² Such a motion may be made at any time, I.C.R. 25(c). The Defendant raises a number of issues in support of the Motion to Disqualify, all of which, as best this Court can determine, relate to rulings made during the trial which are also the subject of the Motions to Set Aside and Motion for New Trial, more fully set forth in fn. 1.

³ The Second Motion raises, for the first time, an additional issue, where the Defendant challenges the method of jury selection employed by the Court in this case.

⁴ The Third Motion raises, for the first time, the additional issue of an alleged failure by the Court in not instructing the jury on the definition of the word "willful" as it applied to the included offense instruction of battery with intent to commit rape.

On October 30, 2014 the Defendant filed a Fourth Motion to Set Aside Verdict and a Fourth Motion for New Trial ("Fourth Motion"),⁵ making some additional arguments as to DNA testing and the qualifications of the State's expert witnesses. The State responded to the Fourth Motion on October 31, 2014, arguing again that the Motion was untimely, and responding on the merits.

The Court responds to the State's contention that the Defendant's Third and Fourth Motions are untimely, pursuant to I.C.R. 34. First, the State is correct that the Third and Fourth Motions, as well as the Second Motion for that matter, are untimely. Motions for New Trial are to be made within fourteen (14) days of the verdict. The Court is given the discretion to extend that time, but only "during the fourteen (14) day period." Defendant responds that the State is not prejudiced because, at the time the Second, Third and Fourth Motions were filed there had been no argument on the First Motion. However, for reasons that will be clear as this opinion goes forward, the Court determines, in its discretion, to decide all issues raised by all the various motions filed by the Defendant in this case.

STATUS OF THE CASE

Succinctly stated, this case arises out of a Prosecuting Attorney's Information, filed February 7, 2013, charging the Defendant, Aman Farah Gas ("Defendant" or "Gas") with the anal rape of Raushelle M. Goodin Guzman on January 20, 2013. After lengthy discovery and delays, some of which will be referred to further below, the matter went to trial before a jury on May 19, 2014. On May 22, 2014 the jury rendered a verdict of guilty on the included felony offense of battery with intent to commit rape. Thereafter the Defendant filed a number of

⁵ The Fourth Motion raises a new issue asserting that the Defendant was denied a fair trial because the state lab witnesses did not do certain DNA testing. The Fourth Motion challenges again the admission of the testimony of State expert witnesses Femreite and Nowlin, on the additional ground that their expert qualifications were not provided until just before they testified.

motions, referenced above, which are considered and decided herein. To the extent pertinent, the facts testified to at trial, as well as other procedural and evidentiary matters, will be more fully referenced below. The Defendant's Motion to Disqualify this Court for cause is also taken up herein. Normally the Motion to Disqualify would be discussed and decided first, obviously because if the Court determines that the Motion to Disqualify has merit and should be granted, it would obviate the need to decide all other matters, to be referred to another judge for decision. However, since the Motion to Disqualify is based on rulings of the Court during the trial, most if not all of which are also the subject of the Defendant's multiple Motions to Set Aside and for New Trial, the trial issues will be discussed first.

DISCUSSION

I. Motion to Set Aside Verdict and Motion for New Trial

Defendant has moved, under Idaho Criminal Rule 34, for the Court to set aside the verdict and order a new trial, alleging multiple errors of the Court during the trial. Under I.C.R. 34, a defendant may move the court to grant a new trial "if required in the interest of justice." A decision to grant or deny a motion for a new trial is within the discretion of the trial court. *State v. Goggin*, 157 Idaho 1, 333 P.3d 112, 115 (2014). "While a decision of whether to grant a new trial is a discretionary matter for the trial judge, I.C. § 19-2406 is an all-inclusive list of the instances where that discretion may be exercised." *State v. Lopez*, 139 Idaho 256, 258, 77 P.3d 124, 126 (Ct. App. 2003).

Idaho Code § 19-2406 limits the circumstances under which a court may grant a new trial after a verdict has been rendered as follows:

When a verdict has been rendered against the defendant the court may, upon his application, grant a new trial in the following cases only:

1. When the trial has been had in his absence, if the indictment is for a felony.

2. When the jury has received any evidence out of court other than that resulting from a view of the premises.
3. When the jury has separated without leave of the court after retiring to deliberate upon their verdict, or been guilty of any misconduct by which a fair and due consideration of the case has been prevented.
4. When the verdict has been decided by lot or by any means other than a fair expression of opinion on the part of all the jurors.
5. When the court has misdirected the jury in a matter of law, or has erred in the decision of any question of law arising during the course of the trial.
6. When the verdict is contrary to law or evidence.
7. When new evidence is discovered material to the defendant, and which he could not with reasonable diligence have discovered and produced at the trial. When a motion for a new trial is made upon the ground of newly-discovered evidence, the defendant must produce at the hearing in support thereof the affidavits of the witnesses by whom such evidence is expected to be given, and if time is required by the defendant to procure such affidavits the court may postpone the hearing of the motion for such length of time as, under all the circumstances of the case, may seem reasonable.

I.C. § 19-2406.

As best this Court can determine from a review of the multiple motions and issues raised therein, Defendant has identified at least thirteen (13) different reasons the Court should order a new trial. Defendant has not attempted to identify which provisions of Section 19-2406 apply to the various claims here. However, it appears to the Court that the only subsections that could possibly apply to any of the claims are subsections 5 and 6.

A. Jury Selection Issues

Defendant has raised three issues with regard to the jury selection process. First, Defendant asserts that the court erred in allowing biased jurors to remain on the jury pool. Second, Defendant argues that the Court erred in failing to grant a *Batson* challenge raised by Defendant after the parties had exercised their peremptory challenges. Finally, Defendant asserts that the entire jury selection process was flawed and deprived Defendant of a fair trial. The Court will address each issue in turn.

1. Claim that Biased Jurors Were Allowed to Remain in the Jury Pool

First, the Court notes that it does not appear that I.C. §19-2406 specifically authorizes the Court to order a new trial on the grounds that biased jurors were allowed to remain in the jury pool and were not excused for cause. However, the Idaho Supreme Court has recognized that “[a] criminal defendant has a constitutional right to trial by an impartial jury.” *State v. Ellington*, 151 Idaho 53, 69, 253 P.3d 727, 743 (2011). Therefore, the Court determines to consider the issue raised and concludes that no error occurred as to biased jurors.

In *State v. Hauser*, a criminal defendant alleged that she was not given a fair trial because a biased juror was allowed on her jury. During the voir dire selection process, the juror stated that he “was inclined to always believe law enforcement officers and was biased against criminal defendants.” *State v. Hauser*, 143 Idaho 603, 608, 150 P.3d 296, 301 (Ct. App. 2006).

The *Hauser* Court adopted the rule that “when a juror admits bias, and gives no unequivocal assurance of the ability to be impartial despite several efforts by the court or counsel to elicit such an assurance, an inference that he will not act with *entire* impartiality becomes inescapable.” *State v. Hauser*, 143 Idaho 603, 610, 150 P.3d 296, 303 (Ct. App. 2006) (emphasis in original). The Court concluded there that because the juror had only stated that he would “try” to be fair and impartial he had not given an unequivocal assurance that he could be fair. *State v. Hauser*, 143 Idaho 603, 610-11, 150 P.3d 296, 303-04 (Ct. App. 2006). The Court of Appeals explained that “[p]erhaps the implication of intractable bias could have been dispelled if the trial court had participated by directly asking the juror whether he would promise or commit to set aside his preconceived notions and base his verdict solely on the trial evidence.” *State v. Hauser*, 143 Idaho 603, 611, 150 P.3d 296, 304 (Ct. App. 2006). Further, in a footnote to its decision in *State v. Ellington*, the Court noted that when jurors were not excused for cause but were also not seated on the final jury panel the *Hauser* decision did not apply. *State v. Ellington*,

151 Idaho 53, 70 n.14, 253 P.3d 727, 744 n.14 (2011). The Court also stated that a juror is presumed to be impartial, and “even a juror's expression of his own opinion of the case during voir dire does not render him partial.” *State v. Ellington*, 151 Idaho 53, 69, 253 P.3d 727, 743 (2011).

“When a party uses one of its peremptory challenges to remove a juror it argues should have been removed for cause, the party must show on appeal that ‘he was prejudiced by being required to use a peremptory challenge to remove [the juror].’” *Nightengale v. Timmel*, 151 Idaho 347, 354, 256 P.3d 755, 762 (2011) (quoting *State v. Ramos*, 119 Idaho 568, 570, 808 P.2d 1313, 1315 (1991)). This requires a showing that at least one of the jurors on the final panel was not impartial or was biased. *Nightengale v. Timmel*, 151 Idaho 347, 354, 256 P.3d 755, 762 (2011).

Defendant focuses his challenge on biased jurors to jurors 4, 6, 30, 44, and 58, who remained on the jury panel through the peremptory challenge stage, although none of these jurors served on the jury in this case.⁶ Jurors 5, 8, 13, 21, 28, 34, 35, 37, 38, 39, 40, 41, and 42 were actually seated on Defendant’s jury. Since the last juror seated was juror 42, any challenge to jurors after that number, and against which no peremptory challenges were used by either party, particularly jurors 43, 44 and 58, is not relevant to the pending motions and will not be considered further herein. Any statements those jurors may have made, that the Defendant objects to, were during in-chambers discussions and could not have impacted other jurors. As to other challenged jurors who did not serve on Defendant’s jury, the Supreme Court’s note in *Ellington* indicates that the *Hauser* rule does not apply here. However, even applying the *Hauser* rule out of an abundance of caution, the Court properly allowed the jurors in question to

⁶ Defendant failed to identify whether any of these jurors actually served on Defendant’s jury but the Court’s review shows that none of them did. Other jurors are identified in Defendant’s briefing, and to the extent pertinent, will be discussed herein.

remain on the panel.

Juror 4, during in-chambers voir dire examination, indicated that she had been the victim of childhood sexual abuse. She stated that the events had happened during a period between twenty-eight (28) and thirty-three (33) years earlier. The Court then inquired into whether Juror 4 could be impartial. The exchange went as follows:

Q . . . Relative to that experience, tell me whether or not you feel you can listen to this case objectively and decide the case based on the facts that you hear in this case, regardless of your experience. Fair and impartial. That's what we're looking for.

A I have forgiven those who hurt me.

Q Okay. So do you think you can be fair and impartial here today?

A I do.

Q Okay.

Transcript, 27:5-14. Thus, the Court ensured that juror 4 offered unequivocal assurances that she would decide the case fairly. The Defendant's counsel was given an opportunity to inquire of this juror and did not obtain any information to suggest that the juror could not be fair and impartial. Just as importantly, the State used a peremptory challenge against juror 4, not the Defendant. Therefore, any potential bias against the Defendant by allowing juror 4 to remain on the panel was vitiated by the State's exercise of a peremptory challenge. Thus, even if error could be shown, it would be harmless and have no impact on the Defendant's case.

Juror 6 explained, during in-chambers voir dire, that she had been the victim of a sexual assault when she was 14, after she became too intoxicated at a party. Transcript, 29:25 - 30:1. The incident had happened approximately ten (10) years before the trial. When the Court asked if she could be fair, she replied that she could, and she would look at both sides of the case. Transcript, 30:8-13. She reiterated this position to the prosecutor and the defense attorney. Transcript, 30:17 - 33:14. These unequivocal reassurances that she would act fairly demonstrate

that the Court did not err in failing to excuse juror 6. Defendant exercised a peremptory challenge against this juror, but there is no showing, based on her unequivocal assurance, that she was biased against the Defendant, or that the Defendant was prejudiced by exercising a peremptory challenge against her.

Defendant challenges the process of selecting juror 30 but acknowledges that this juror was excused by the Court for cause, after initially taking the Defendant's motion to excuse for cause under advisement (*see* Transcript 62). The Defendant was not required to exercise a peremptory against her and she did not serve on his jury. No legitimate basis for a new trial is shown as to this juror.

Defendant also challenges juror 32, against whom the Defendant did exercise a peremptory challenge, asserting that because she was a member of the board of directors of Family Service Alliance, an organization that advocates for the victims of domestic abuse, the Court should have excused her from the panel. Despite her participation in this organization she gave an unequivocal assurance to the Court and both counsel that she could be fair and impartial. The Defendant did not seek to have this juror excused for cause, and certainly no cause was shown. *See* Transcript 62-69.

Defendant also challenges juror 37 because his sister had been molested. Defendant failed to note that this juror's in-chambers voir dire showed that the molestation was by this juror's father, had happened 30 years before and that the juror gave absolute assurances that he could be fair and impartial. Defendant made no objection to this juror remaining on the panel.

The Court easily concludes that it appropriately exercised its discretion in removing potential biased jurors, and in allowing jurors to remain on the panel that gave unqualified assurances that they could be fair. None of the challenged jurors served on the jury and the

Defendant could only identify one potentially biased juror against whom he exercised any of his 11 peremptory challenges. Finally, the Court notes that even if its decision not to exclude the jurors for cause was error, it was harmless because Defendant has failed to show that any of the jurors on the panel were partial or biased. Defendant's request for a new trial based on the Court's alleged failure to exclude biased jurors is without merit.

2. Defendant's Batson Challenge

At one point during the trial the Defendant made a *Batson* challenge based on the prosecutors' use of their first nine (9) of eleven (11) peremptory challenges to strike males from the jury panel. The Court heard argument and denied the motion. Defendant now reasserts the motion and argues the Court erred in not granting the motion.

Before conducting an extensive analysis of this challenge, the Court notes that in *State v. Hansen*, 127 Idaho 675, 678, 904 P.2d 945, 948 (Ct.App.1995), both the district court and the appellate court considered a *Batson* challenge very similar to the one at issue here. Of note, the appellate court concluded:

Although the Idaho appellate courts have not specifically ruled on the state's assertion, we note that the general rule in Idaho is that, "a challenge to the panel must be taken before a juror is sworn, and must be in writing, and must plainly and distinctly state the facts constituting the ground of challenge." I.C. § 19-2006. Further, a challenge to a jury panel or an individual juror because of errors or discrimination during the jury selection process must be made before the jury is empaneled. *State v. Yon*, 115 Idaho 907, 771 P.2d 925 (Ct.App.1989); *State v. Ruybal*, 102 Idaho 885, 643 P.2d 835 (Ct.App.1982).

(Emphasis added). The Court further held that a failure to make a *Batson* challenge prior to the jury being empaneled waives the *Batson* challenge, and also noted that that this does not constitute fundamental error which can be appealed. *Id.* The Court's review of the transcript reveals that the *Batson* challenge in this case occurred after the jury was sworn in. Transcript, 146:8-18; 153:2-155:2. Therefore, pursuant to I.C. § 19-2006 this Court erred in even

considering the Defendant's motion challenging the State's use of peremptory challenges, because it was untimely. Nevertheless, in an abundance of caution, and for consideration should an appeal be filed, the Court addresses the *Batson* challenge on the merits, concluding however that the challenge was untimely and will be denied.

In *Batson v. Kentucky*, the United States Supreme Court held that the equal protection clause prevents prosecutors from challenging "potential jurors solely on account of their race or on the assumption that black jurors as a group will be unable impartially to consider the State's case against a black defendant." *Batson v. Kentucky*, 476 U.S. 79, 89, 106 S. Ct. 1712, 1719, 90 L. Ed. 2d 69 (1986) *holding modified by Powers v. Ohio*, 499 U.S. 400, 111 S. Ct. 1364, 113 L. Ed. 2d 411 (1991). In *Powers v. Ohio*, the holding of *Batson* was modified so that "a defendant in a criminal case can raise the third-party equal protection claims of jurors excluded by the prosecution because of their race." *Powers v. Ohio*, 499 U.S. 400, 415, 111 S. Ct. 1364, 1373, 113 L. Ed. 2d 411 (1991). The Idaho Court of Appeals has recognized that "In *J.E.B. v. Alabama ex rel. T.B.*, 511 U.S. 127, 141–42, 114 S.Ct. 1419, 1427–28, 128 L.Ed.2d 89, 104–05 (1994), the Court extended the *Batson* doctrine to peremptory challenges exercised on the basis of gender." *State v. Ornelas*, 156 Idaho 727, 330 P.3d 1085, 1090 (Ct. App. 2014).

Batson challenges are reviewed through a three step analysis. As applied to this case, the defendant must first make a prima facie showing that a peremptory challenge has been exercised on the basis of gender. Second, if that showing has been made, the prosecution must offer a gender-neutral basis for striking the juror in question. Third, in light of the parties' submissions, the trial court must determine whether the defendant has shown purposeful discrimination. *State v. Ornelas*, 156 Idaho 727, 330 P.3d 1085, 1090 (Ct. App. 2014) (quoting *United States v. Alanis*, 335 F.3d 965, 967 (9th Cir.2003) (alterations in original)).

The Defendant has the burden on the first step. “To establish a prima facie case of discrimination, the defendant must show that the challenged prospective juror is a member of a cognizable [gender] group and that the prosecutor exercised peremptory challenges to remove from the jury members of the defendant's [gender].” *State v. Foster*, 152 Idaho 88, 91, 266 P.3d 1193, 1196 (Ct. App. 2011) (alterations made by the Court). It is erroneous to conclude that a prima facie case of discrimination has not been shown because “the jury empanelled was gender-balanced.” *State v. Erickson*, 148 Idaho 679, 687, 227 P.3d 933, 941 (Ct. App. 2010).

Once a prima facie case of discrimination has been made, the burden, in the second step, shifts to the prosecution to offer a gender-neutral explanation for excusing the prospective juror. *State v. Erickson*, 148 Idaho 679, 687, 227 P.3d 933, 941 (Ct. App. 2010). “It is not enough for the prosecutor to represent that he or she did not exercise its challenges on an impermissible basis; the State must provide a clear and reasonably specific explanation of legitimate reasons for exercising the challenges.” *State v. Erickson*, 148 Idaho 679, 687, 227 P.3d 933, 941 (Ct. App. 2010). Furthermore, “[w]here the defendant objects on the ground of gender discrimination, the State's explanation must be based on a juror characteristic other than gender, and it may not be merely pretextual.” *State v. Erickson*, 148 Idaho 679, 687, 227 P.3d 933, 941 (Ct. App. 2010).

After the prosecutor has offered its explanations for its use of peremptory challenges, “[i]t is then for the trial court to determine whether the State's explanation has overcome the inference of purposeful discrimination established by the defendant's prima facie showing.” *State v. Erickson*, 148 Idaho 679, 687, 227 P.3d 933, 941 (Ct. App. 2010). “The party asserting discriminatory use of a peremptory challenge bears the ultimate burden of persuasion and must show that purposeful discrimination was, in fact, the basis for use of the peremptory challenge.” *State v. Foster*, 152 Idaho 88, 91, 266 P.3d 1193, 1196 (Ct. App. 2011). The court must then,

“undertake a sensitive inquiry into such circumstantial and direct evidence of intent as may be available.... Trial courts have broad discretion in formulating the necessary framework for evaluating explanations given by the state for the use of peremptory challenges after a *Batson* objection. The district court is in a better position than [an appellate court] to determine the motivation of the state in challenging a juror.” *Id.* In effect, “the court must evaluate the persuasiveness of the justification[s] offered by the prosecutor.” *State v. Ornelas*, 156 Idaho 727, 330 P.3d 1085, 1094 (Ct. App. 2014) (internal quotations omitted). “This inquiry includes comparative juror analysis.” *State v. Ornelas*, 156 Idaho 727, 330 P.3d 1085, 1095 (Ct. App. 2014).

In *Ornelas*, the Court of Appeals remanded the case to the trial court for a proper *Batson* analysis and ordered that “if it determines that the peremptory strike of juror 24 was motivated in substantial part by discriminatory intent, the court should vacate [the defendant’s] conviction.” *State v. Ornelas*, 156 Idaho 727, 330 P.3d 1085, 1096 (Ct. App. 2014).

Here the State used its first nine (9) of its eleven (11) peremptory challenges to excuse males. The next two peremptory challenges were used to excuse females. As to the first step, the Court concludes that this demonstrates at least a *prima facie* case of discrimination on the basis of gender. As to the second step, the prosecutor’s gender-neutral explanation for the use of peremptory challenges against males was as follows:

MR. CRONIN: Your Honor, I believe we ended up with a jury of five males and seven females, if my counting is correct. So if there was any kind of a pattern on behalf of the state, we obviously didn’t do a very good job of it.

THE COURT: I think it ended up being seven women and six men total, and who knows by the time we excuse one of them. Seven women, six men. And who knows by the time we get the alternate.

MR. CRONIN: And I believe there was a time when the defendant also chose three or

four women in a row, and I certainly don't generally cast any dispersions on them. I'm sure they have their valid reasons. For whatever reason, they decide to exclude people.

THE COURT: Do you wish to make any record as the peremptoriness [sic] you used that are nongender-related for purposes of preserving that in case of an appeal were taken in the case? It's up to you?

MS. PRICE: The first 15, there's 15 females in the first 21 jurors.

MR. CRONIN: Yeah. Generally, I think Ms. Price has just pointed out 15 of the first 21 people seated were female. One preference I had was generally speaking, since you're talking to the people in the first couple of rows, that's a preference to have in the first couple of rows.

The state also, I probably -- if I had to flip a coin between younger males or older males, my preference would be older males, which are the people that I didn't exclude. And possibly if I was to flip a coin between older and younger females, it would be younger females. But there are multiple factors. And really gender is really miniscule in any kind of factor of selection.

THE COURT: Thank you.

Tr, 153:24 - 155:9.

The first argument offered by the State, that the jury panel was gender balanced, is not a legitimate basis for concluding that the peremptory challenges were not properly exercised. *See State v. Erickson*, 148 Idaho 679, 687, 227 P.3d 933, 941 (Ct. App. 2010). Additionally, the Court finds the State's argument that Defendant exercised "three or four" peremptory challenges in a row on females, to be unpersuasive in determining whether the State improperly exercised its challenges. Thus, the explanation offered by the State was that "if I had to flip a coin between younger males and older males, my preference would be older males" or that "possibly if I was to flip a coin between older and younger females, it would be younger females." In short, the explanation offered by the State related to the juror's age, rather than gender. This is a non-gender related explanation. It did not address each specific male juror against whom a

peremptory challenge was exercised and could certainly have provided more information on each challenge. However, the Court finds the State's explanation to be non-gender based, meeting its burden on this issue.

At the time of the original challenge the Court rendered its ruling as follows:

To the extent that you're challenging the jury selection process, that objection is overruled. I think that -- I made the same observations as we started the process that the state did exclude nine males to begin with, but the last two were females. And they were high in the process in terms of -- within the first 24 jurors. So I didn't notice any -- except for the initial use of peremptoriness, I noticed that too, but I don't see any particular pattern or reason that justifies a gender-biased pattern in terms of their exercise of peremptory challenges. So it's overruled for that reason.

Transcript, 155:14-25.

The Court's statement does not appear to have been a sufficient evaluation of the *Batson* challenge, although the Court's statement does begin the process of evaluating whether the State's use of the peremptory challenges demonstrates purposeful discrimination, i.e., were exercised with discriminatory intent. Thus, the Court examines the record, both on the issue of the basis offered by the prosecutor for the challenges, and any additional information available upon which the Court may appropriately consider the factors it should in the determination of "purposeful discrimination." Some of the factors mentioned by other courts in this analysis include the demeanor and credibility of the attorney seeking to exercise the challenge, whether that attorney's questioning of prospective jurors differed based upon their sex or race, whether the reason given for the strike would apply equally to jurors of different race or sex whom the attorney did not strike, whether the reason given for the strike is plausible or reasonable, whether peremptory challenges exercised by that attorney, including in other trials, reflect a pattern of discrimination, whether the attorney did not seek to strike other jurors of the same race or sex as

those at issue, and whether granting the peremptory challenges will have a disproportionate impact on jurors of a particular sex or race.⁷

In terms of comparative juror analysis, the State excused jurors 1, 29, 23, 22, 31, 33, 16, 17, 36, 4, and 25 in that order. Juror 1 was a 51 year-old male. Juror 29 was a 40 year-old male. Juror 23 was a 49 year-old male. Juror 22 was a 19 year-old male. Juror 31 was a 55 year-old male. Juror 33 was a 53 year-old male. Juror 16 was a 21 year-old male. Juror 17 was a 30 year-old male. Juror 36 was a 60 year old male. Juror 4 was a 44 year-old female. Juror 25 was a 19 year old female. Of the nine challenges made against men, six were against males 40 and over. Thus, the State's offered explanation of the use of its peremptory challenges - that it favored exclusion of younger jurors over older jurors - is not supported by the actual use of the challenges.

However, the final jury panel consisted of jurors 5, 8, 13, 21, 28, 34, 35, 37, 38, 39, 40, 41, and 42. Juror 5 was a 44 year-old female. Juror 8 was a 23 year-old female. Juror 13 was a 21 year-old female. Juror 28 was a 34 year-old female. Juror 34 was a 53 year-old male. Juror 35 was a 65 year-old male. Juror 37 was a 42 year-old male. Juror 38 was a 33 year-old female. Juror 39 was a 26 year-old female. Juror 40 was a 56 year-old male. Juror 41 was a 38 year old male. Juror 42 was a 46 year-old female. The jury, as empanelled, demonstrates the States' argued preference to allow older males on the jury panel while excluding younger males, as the youngest male on the jury was 38 years old. Obviously, however, the same analysis does not hold true for the females since six out of the eight female jurors were under the age of 40. Nevertheless, the issue is whether the State exercised its peremptory challenges against men with

⁷ This last point emphasizes the need for making a *Batson* challenge before the jury is sworn and while other potential jurors are present. If the challenge is proper, the explanations can be given as the peremptory challenge is exercised and a ruling can be made on that challenge, which if granted then allows the challenged party to exercise its peremptory against another potential juror.

a discriminatory purpose, and the males on the jury confirm the State's non-gender explanation, that it preferred older men.

The Court reviewed the voir dire examination of the jury panel by the State's attorney, JaNiece Price. Tr. 109:9-140:11. The entire examination was gender neutral. None of the questions differed based on gender. Further, the Court noted at the time it ruled on the motion, that there did not appear to be any demeanor or credibility issues raised in the way the State exercised its peremptory challenges. The reason given for the strike, which was age rather than gender, could have applied to either sex equally, but was born out in the age of the males who served on the jury panel. There is no evidence of a pattern of discriminatory exercise of peremptory challenges in other cases. The exercise by the State in this case did not have a disproportionate impact on jurors of a particular gender. In short, the Court finds that there is no evidence of a discriminatory intent which would have justified granting a *Batson* challenge had it been timely made. Further, the Court finds that the Defendant did not offer any evidence in support of discriminatory intent other than the exercise of the strikes themselves. This would have been an inadequate basis for the *Batson* challenge made now.

3. Jury Selection Process

Defendant cites Idaho Code §§ 2-201 through 2-206 and Idaho Criminal Rule 24 to contend that the Court's jury selection method is improper.⁸ Initially, Rule 24(a) provides that the Court may require brief opening statements "to the entire jury panel, prior to voir dire." This provision demonstrates the fact that all members of the jury panel are potential and prospective jurors. Rule 24(e), the section partially relied on by the Defendant, provides:

(e) Use of a Struck Jury. The court may, in its discretion, cause a panel of jurors to be

⁸ There is no specific provision from the statutes referenced that Defendant relies on here, except as background for the statutory basis upon which a jury panel is selected. The focus is on I.C.R. 24. Rules relating to the selection of juries are promulgated by the Idaho Supreme Court, pursuant to I.C. §2-220.

questioned and passed for cause in a number equal to the number of jurors and alternates required for the final jury and an additional number equal to the number of peremptory challenges of the parties. Such prospective jurors when chosen shall be seated in such manner as to be designated numerically with the lower numbered jurors constituting the initial panel and alternate jurors, and the subsequent numbered jurors becoming the replacement jurors in the event any of the jurors of the original panel are removed by a peremptory challenge.⁹

In this case, the Court employed a struck jury system in which all members of the jury panel remained seated together in the gallery throughout the jury selection process. The jurors were assigned random numbers from one (1) to sixty-five (65). The jurors were then seated in the gallery, and counsel were seated behind the bar facing the gallery. From the view of the Court and counsel, looking out over the jury panel, Juror 1 was seated in the front left seat in the gallery. The other jurors were seated in ascending order from left to right across the front row, with seven jurors on each side of the aisle in any given row. Jurors 1 through 7 were seated in the front row on the left side of the aisle running down the middle of the gallery. Jurors 8 through 14 were seated in the front row on the right side of the aisle. The numbering in the second row began again on the left and continued to the right mirroring the seating in the front row. Thus, Juror 15 was seated in the far left seat of the second row. Jurors 15 through 21 were seated in ascending order from left to right on the left side of the aisle in the second row. Jurors 22 through 28 were seated in ascending order on the right side of the aisle in the second row. This pattern was followed for each additional juror in the gallery, until all the jurors were seated. A seating chart was made showing the name, juror number and location of each juror and was provided to counsel.

Voir dire proceeded with the Court and counsel questioning the entire panel of prospective jurors. As jurors were excused from the panel, their seats remained empty. Thus, the jurors never moved seats, and counsel could easily identify where each juror was seated

⁹ The Court adds emphasis to the beginning phrase of this section because it is ignored by the Defendant.

based on the seating chart. Once all “for cause” and peremptory challenges had been exercised and those jurors had been excused, the first thirteen jurors remaining were seated as the final jury, including one alternate. The parties had been informed, prior to trial, that jury selection and the final panel would be determined in this manner and did not object to it.

Defendant argues that he was denied a fair jury selection process because the Court did not require the “prospective jurors” to be separated from the jury panel. Defendant argues he was precluded from conducting proper voir dire because “there was a mass of people sitting in the gallery with physical barriers impeding the ability to view and observe the jurors.”¹⁰

Defendant asserts that, under Rule 24, the Court was required to employ a method of jury selection that would segregate those prospective jurors totaling the number of actual jurors, plus alternate or additional jurors, plus the number of peremptory challenges, to be seated in a particular location, such as the jury box and chairs in front thereof, from other prospective jurors seated more generally in the gallery. However, although the method Defendant suggests is used by some courts, Rule 24(e) makes clear that utilizing such a method is discretionary, not mandatory. In addition, the Defendant’s reading of Rule 24(e) concludes, erroneously, that his proposed method is the only appropriate and constitutional method of jury selection. Defendant offers no authority for such a position. The Defendant’s assertion that Court was required to segregate certain prospective jurors from the remaining prospective jurors fails to acknowledge that all members of the jury panel are prospective jurors. Since any of the jurors in the total panel could end up on the jury, depending on the need to excuse jurors for cause and the exercise of 22 peremptory challenges, it is certainly within the Court’s discretion to require voir dire

¹⁰ Brief in Support of Second Motion to Set Aside Verdict and Second Motion for New Trial, p. 3. The Court also notes that the only physical barrier between the attorneys and the gallery were the tables at which counsel was seated, and the bar between the court and the gallery. All prospective jurors were readily visible and subject to individual examination in the voir dire process.

examination of the entire panel at one time, rather than asking the same question to a variety of jurors who are called up in a segregated way when other jurors are excused for cause. It is the Court's conclusion that the method of jury selection used in this case, in which all prospective jurors can focus on the Court and attorneys who ask questions, where no prospective juror is ignored or feels excluded, and where all questions of any prospective juror need only be asked once, facilitates a more efficient and effective process, was entirely appropriate, within the parameters of the statutes and rules referred to, and not a violation of any Constitutional right. Defense counsel was sufficiently informed of the procedure the Court would follow in selecting the final jury, and counsel's view of the prospective jurors was not hindered. Counsel was given adequate time to question any prospective juror he/she wished to.

Again, Defendant offers no authority whatsoever for his claim that a different struck jury selection process is required, nor does he offer any cogent reason that the Court's preferred struck jury system impairs the Defendant's ability to properly question the jury panel. For the reasons stated above, the Court concludes that the statutory and court rules for selecting a jury were complied with, and none of Defendant's constitutional rights were violated.

B. Jury Instruction Issues

Defendant alleges three errors by the Court in instructing the jury. First, Defendant contends that the Court erred by giving an included offense instruction for the included offense of "battery with intent to commit rape." Second, Defendant asserts that the Court erred by not instructing the jury on the included offense of misdemeanor battery. Lastly, Defendant contends that the Court erred in failing to instruct the jury on the definition of "wilful." As these issues relate to the Court's instructions to the jury on matters of law these issues can properly be considered by the Court as a basis for granting a new trial under I.C. § 19-2406(5).

1. Giving the Battery with Intent to Commit Rape Instruction

Defendant asserts three grounds in contending that the Court erred by giving the “battery with intent to commit rape” instruction. First, Defendant asserts that “battery with intent to commit rape” is only a lesser included offense to forcible rape, which was not charged in this case. Second, Defendant argues that by giving the “battery with intent to commit rape” instruction, the Court impermissibly divided one criminal event into multiple criminal acts or episodes. Third, Defendant argues that there was variance between the charge as alleged and the instruction, which allowed the jury to convict on a theory not alleged. The Court will address each argument in turn.

a. Battery with Intent to Commit Rape as a Lesser Included Offense of Rape

Defendant argues that the holding of *State v. Bolton*,¹¹ limits “battery with intent to commit rape” to only being a lesser included offense of forcible rape. Defendant asserts that because this case was not charged as forcible rape, it was improper for the Court to submit “battery with intent to commit rape” as an included offense.

In *Bolton*, the Defendant was charged with rape achieved by force or violence. Thus it was a forcible rape charge and the issue considered by the court was “whether battery with intent to commit rape is a lesser included offense of forcible rape and whether the jury was instructed properly on lesser included offenses.” *State v. Bolton*, 119 Idaho 846, 849, 810 P.2d 1132, 1135 (Ct. App. 1991).

The *Bolton* Court explained that “[a] lesser included offense is one which is necessarily committed while committing the crime charged, or the essential elements of which are alleged as the manner or means by which the charged offense has been committed.” *Id.* The court also noted that in addition to considering whether the charging documents necessarily include a lesser

¹¹ 119 Idaho 846, 850, 810 P.2d 1132, 1136 (Ct. App. 1991)

included offense, courts must also look to “whether the evidence adduced at trial shows that the included offense was committed during the commission of the charged offense.” *Id.* This holding was echoed in *State v. Amerson*, where the Court concluded that “when a trial court is requested to give an instruction on a lesser included offense, it must look to *all* of the evidence presented at the trial to determine if there is a reasonable view of the evidence to support the requested instruction.” 129 Idaho 395, 404, 925 P.2d 399, 408 (Ct. App. 1996).

The *Bolton* Court looked to the statutory definition of battery found in I.C. § 18-903, which states:

A battery is any:

- (a) Willful and unlawful use of force or violence upon the person of another; or
- (b) Actual, intentional and unlawful touching or striking of another person against the will of the other; or
- (c) Unlawfully and intentionally causing bodily harm to an individual.

The court then explained that battery with intent to commit rape finds its statutory basis in I.C. §18-911, which states that “[a]ny battery committed with the intent to commit . . . rape . . . is a battery with the intent to commit a serious felony.” The *Bolton* Court then reviewed the language of the charging document and concluded that the state had alleged that “battery was the ‘manner or means’ by which the rape was accomplished.” *State v. Bolton*, 119 Idaho 846, 850, 810 P.2d 1132, 1136 (Ct. App. 1991). The court concluded that battery with intent to commit rape was a lesser included offense to rape which could be shown by demonstrating all the elements of rape except penetration. *Id.*

This Court acknowledges that the facts of *Bolton* deal with a case of forcible rape. But nothing in the *Bolton* opinion prevents battery with intent to commit rape from being applied in other types of rape cases. In fact, Idaho Criminal Jury Instruction 970 states: “[B]attery with intent to commit rape is an included offense of rape and can be shown by proof of all the

elements of rape except penetration.” ICJI 970 (citing *State v. Bolton*, 119 Idaho 846, 810 P.2d 1132 (Ct. App. 1991), emphasis added). Nothing in the comment indicates that battery with intent to commit rape is limited to forcible rape cases, contrary to the Defendant’s assertion. By applying the analysis used in *Bolton*, and the pattern instruction approved by the Idaho Supreme Court, it is clear that the included instruction here was properly given. The information charged that Defendant “did penetrate with his penis the anal opening of a female person, Raushelle M. Goodin Guzman, who at the time was unconscious of the nature of the act and this was known to the defendant.” Prosecuting Attorney’s Information, p. 2.

The evidence presented at trial was that the assailant fingered the victim’s anal opening before attempting penile penetration. Defendant erroneously asserts that “battery is a crime of violence.” A battery occurs, not only when there is force or violence, but also when “[a]ctual, intentional and unlawful touching or striking of another person against the will of the other . . . occurs.” See I.C. § 18-903. The pattern instruction 970, referenced above, requires that “when committing such battery the defendant had the intent to use such force as was necessary to cause his penis to penetrate, however slightly, her anal opening, without her consent.” The comment to Instruction 970 states that a battery with intent to commit rape can be shown by proof of all elements of rape except penetration. Force is not required in every instance of rape, including this case. The jury acquitted Defendant of the crime of rape, but found him guilty of the crime of battery with intent to commit rape. Thus, while it appears the jury did not believe that actual penetration occurred, it did conclude that the Defendant had committed acts which met all the elements of a the crime of rape other than penetration, and which included an “[a]ctual, intentional and unlawful touching or striking of another person against the will of the other” I.C. § 18-903.

The Court easily concludes that it properly instructed the jury as to the included offense of battery with intent to commit rape, and that there is a reasonable view of the evidence which would support the jury's verdict on that crime.

b. Separation of Single Act into Multiple Acts

Defendant argues that by instructing the jury on the included crime of battery with intent to commit rape, the Court violated Defendant's right to be free from double jeopardy by turning one criminal act into multiple acts or episodes. Defendant relies on *State v. Moffat*, 154 Idaho 529, 534, 300 P.3d 61, 66 (Ct. App. 2013), to support his argument.

In *Moffat*, the Court of Appeals reversed a conviction because the defendant was incorrectly charged with two separate crimes when one of the crimes should have been treated as an included offense of the other. *State v. Moffat*, 154 Idaho 529, 534, 300 P.3d 61, 66 (Ct. App. 2013), *review denied* (May 3, 2013). The defendant in *Moffat* could have been convicted of both the primary crime and the included offense, thus subjecting him to convictions for two crimes arising out of one crime. The court concluded that this was a violation of the double jeopardy clause. *State v. Moffat*, 154 Idaho 529, 534, 300 P.3d 61, 66 (Ct. App. 2013).

In this case, the Defendant was only charged with one crime. The Court instructed the jury on an included offense. This is precisely what should have occurred in *Moffat* and didn't. In this case, the Defendant was never in jeopardy of being convicted of both crimes. Defendant could only be convicted of rape or battery with intent to commit rape, but not both. Thus, the Court complied with the law as explained in *Moffat*. If the Defendant's contention were valid it would apply in virtually every case where the jury is instructed on an included offense.

c. Variance

"A variance may occur where there is a difference between the allegations in the charging instrument and the proof adduced at trial or where there is a disparity between the allegations in

the charging instrument and the jury instructions.” *State v. Day*, 154 Idaho 476, 479, 299 P.3d 788, 791 (Ct. App. 2013), *review denied* (May 3, 2013). “[A] variance between a charging document and a jury instruction requires reversal only when it deprives the defendant of fair notice of the charge against which he or she must defend or leaves him or her open to the risk of double jeopardy.” *State v. Day*, 154 Idaho 476, 479, 299 P.3d 788, 791 (Ct. App. 2013), *review denied* (May 3, 2013). Variance will exist where the jury instructions do not match the allegation in the charging document as to the means by which a defendant is alleged to have committed the charged crime. *Id.*

As explained above, the manner or means by which Defendant was alleged to have committed the rape was through penile/anal penetration. Necessarily included in this contention, is the allegation that Defendant committed a battery upon the victim by the actual, intentional and unlawful touching of the victim against her will. Thus, the means test articulated in *Day* is met here and no variance occurred. Additionally, because the battery was the necessary means by which the rape was attempted, Defendant was on sufficient notice of the charge. Furthermore, the battery with intent to commit rape instruction was given as an included crime, and Defendant was never at risk of being placed in double jeopardy. Thus, even if there were a variance, no harm can be shown.

For the reasons stated above, the Court concludes that the jury was properly instructed as to the included offense of battery with intent to commit rape.

2. Failing to Instruct on the Included Offense of Misdemeanor Battery

As noted above, “[a] lesser included offense is one which is necessarily committed while committing the crime charged, or the essential elements of which are alleged as the manner or means by which the charged offense has been committed.” *State v. Bolton*, 119 Idaho 846, 849, 810 P.2d 1132, 1135 (Ct. App. 1991). However,

Where the court fails to give a required lesser included instruction, the error is harmless if the jury convicts the Defendant of the greater offense, because the conviction precludes the jury from considering the lesser included offenses. *State v. Hudson*, 129 Idaho 478, 481, 927 P.2d 451, 454 (Ct. App. 1996). It is presumed that the jury will follow the instructions given by the Court. *Id.* Thus, if the jury convicts the defendant of the greater crime, it can be presumed that they would not have even considered the lesser included offense based on the “acquittal first” instruction, which requires the jury to acquit a defendant of a great crime before even considering the included offenses. *Id.* (citing I.C. § 19-2132(c)).

Interestingly, Defendant does not even claim that misdemeanor battery is an included offense of rape, but raises this meritless contention as a “throw away” argument, supposedly “triggered by the court’s erroneous ruling” on the included offense of battery with intent to commit rape, thus giving the Defendant another opportunity to argue again that the included offense of battery with intent to commit rape can only be given when the rape is forcible.¹²

Nevertheless, there is no need to even consider or respond to this contention. Based on the above cited law, the Court concludes that even if it had been required to give a lesser included misdemeanor battery instruction, which it was not, any such error would have been harmless and would not warrant a new trial.

3. Failure to Give an Instruction on the Definition of “Wilful” [sic]¹³

As noted previously, the Court instructed the jury on the included offense of battery with intent to commit rape, and that is the crime the Defendant was convicted of. Because that offense necessarily requires the Court to instruct on the definition of “battery,” as set forth in Idaho Criminal Jury Instruction No. 1203, which the Court did in Jury Instruction No. 17 in this

¹² See the Court’s previous rejection of this contention.

¹³ Idaho Criminal Jury Instruction No. 1203 spells this word as “willful” and it will be spelled that way going forward.

case, the Defendant contends that the Court erred in failing to instruct the jury on the definition of “willful” as that word appears in the definition of battery included in Instruction No. 17.

Defendant made no objection to the failure to instruct on the definition of “willful” at trial. “No party may assign as error the giving of or failure to give an instruction unless the party objects thereto before the jury retires to consider its verdict, stating distinctly the instruction to which the party objects and the grounds of the objection.” I.C.R. 30(b). However, the Idaho Supreme Court “traditionally has reviewed ‘fundamental’ errors on appeal, even when no objection was raised at trial.” *State v. Anderson*, 144 Idaho 743, 748, 170 P.3d 886, 891 (2007). “An error is fundamental when it ‘so profoundly distorts the trial that it produces manifest injustice and deprives the accused of his fundamental right to due process.’” *State v. Anderson*, 144 Idaho 743, 748, 170 P.3d 886, 891 (2007) (quoting *State v. Lavy*, 121 Idaho 842, 844, 828 P.2d 871, 873 (1992)). The *Anderson* Court concluded that due to Rule 30(b)’s restrictions, an error in jury instructions that was not objected to at trial could only be reviewed for fundamental error where due process violations resulted in manifest injustice. *State v. Anderson*, 144 Idaho 743, 749, 170 P.3d 886, 892 (2007).

Before a court determines whether a fundamental error is reviewable it must first be determined whether an error occurred. *State v. Anderson*, 144 Idaho 743, 748, 170 P.3d 886, 891 (2007). In *Anderson*, the Court determined that it was error for the trial court to give an instruction defining “willful” because the court had omitted an element from the elements instruction of the crime charged and the giving of the definition of willful instruction exacerbated the error by not requiring the jury to find that the defendant had met the requisite level of intent. *State v. Anderson*, 144 Idaho 743, 748-49, 170 P.3d 886, 891-92 (2007). In effect, the giving of the instruction had lowered the intent requirement and allowed the defendant to be convicted

based on a lower level of intent. *State v. Anderson*, 144 Idaho 743, 749, 170 P.3d 886, 892 (2007).

The Court first notes that Defendant was given multiple opportunities to offer proposed instructions and to object to the Court not offering the “willful” definition instruction. Defendant never objected on this basis until he filed his Third Motion. Thus, the Court concludes that unless the error created a manifest injustice, it is not subject to review by the Court at this time.

Defendant argues that the failure to give the definition of “willful” instruction lowered the burden of proof the State was required to meet. This logic is in error. The *Anderson* decision makes clear that defining “willful,” when a crime requires a more specific intent, creates the danger of lowering the burden of proof, not the opposite. Here, Instruction 16 required the State to prove that “the defendant had the intent to use such forces as was necessary to cause his penis to penetrate, however slightly, [the victim’s] anal opening, without her consent.” Failing to give a definition of “willful” did not cause the burden of proof to be lowered. Only if the Court had given the definition of willful instruction would there have been a danger that the burden of proof would have been lowered.

Defendant also argues that the definition of “willful” should have been given as supported by the Idaho Appellate Court decision in *State v. Lilly*, 142 Idaho 70, 122 P.3d 1170 (Ct.App. 2005). This contention is also in error because *Lilly* stands for the proposition that the it was error to give the general definition of “willful” found in I.C. § 18-101(1) because the domestic violence charge in that case required a more specific finding of intent. More importantly, however, *Lilly* also stands for the propositions (1) that whether an act is “willful” can generally be gleaned from the plain language of the charging statutory language and (2) any

error is harmless if the Defendant does not contend that he acted without intent.¹⁴ In this case, the Defendant's position was that he wasn't in the apartment with the victim on the night in question and could not have committed this act.¹⁵ He never contended that he had contact with the victim but did not intend the act he was charged with. Thus, any alleged error in failing to give a definition of "willful" to the jury, accompanying the battery instruction, was harmless.

The Court concludes that it was not error to omit the instruction never offered by the Defendant or objected to at trial, and that even if there was an error it did not create manifest injustice and was harmless.

C. Evidentiary Issues

Defendant contends that the Court erred in two primary areas as to evidence offered at trial. First, Defendant contends that the Court abused its discretion when it allowed photos of the victim's injuries taken at the hospital during an examination shortly following the rape. Second, Defendant argues multiple grounds why the Court erred in allowing the State's DNA experts to testify. It does not appear that either of these arguments meet the requirements for granting a new trial under Section 19-2406. Despite this fault, the Court will review the merits of each issue.

1. Denial of Motion to Exclude Hospital Photos

Prior to trial, Defendant moved to exclude photographs of the victim's injuries taken shortly after the rape during a hospital examination conducted by a Sexual Assault Nurse Examiner (SANE). Defendant asserts that the witnesses were sufficiently able to describe the extent of the victim's injuries without the photos. Defendant contends that the photos were overly prejudicial and unnecessary to assist the jury in understanding the testimony of the

¹⁴ See also *State v. Sohm*, 140 Idaho 458, 95 P.3d 76 (Ct.App. 2004).

¹⁵ This position is continued in the briefing offered by the Defendant in support of his motions herein. See initial brief in support, filed August 13, 2014, pp. 31-36.

witnesses. Effectively, Defendant argues that photos lacked sufficient probative value to outweigh their prejudicial effect. Prior to trial, the Court ruled that some of the photos would be admissible, and after foundation was laid by the SANE nurse who conducted the exam, the Court allowed the admission of further photos that depicted additional facts.

Idaho Rules of Evidence 403 states “[a]lthough relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.” “The determination of whether or not to admit such evidence is within the sound discretion of the trial court and will not be disturbed on appeal absent an abuse of that discretion.” *State v. Enno*, 119 Idaho 392, 406, 807 P.2d 610, 624 (1991). “A defendant cannot complain that a jury was inflamed or that the jury's emotions were excited by evidence which depicts for the jury accurately that a crime was committed and the method, fashion and atrociousness by which the crime was committed.” *State v. Beam*, 109 Idaho 616, 621, 710 P.2d 526, 531 (1985).

On May 8, 2014, the Defendant filed a Second Motion in Limine, seeking exclusion of certain photographs taken by Ann Wilcox, SANE nurse, purportedly showing the injuries sustained by the victim as a result of the alleged criminal conduct of the Defendant. There were 11 photographs submitted for review. The Court took the Motion in Limine under advisement on May 14, 2014, subject to the Court's review of the photographs themselves. Following that review, the Court, in the exercise of its discretion, ruled that the State would be allowed to present two of the 11 photographs as representative of the injuries sustained by the victim. The Court's initial ruling, having viewed the photographs with an untrained eye, was that the remainder of the photographs would be unnecessarily cumulative, but the ruling was subject to

further foundation that could be laid at trial. During the trial, the State presented the testimony of Ann Wilcox, the SANE nurse, who explained the injuries and the method of documenting the injuries through photographs. During that testimony, the Court determined that a sufficient foundation had been laid by the witness to demonstrate differences in three additional photos showing additional or different injuries to the victim, and which would be appropriately admissible based on that foundation.¹⁶ Thus, the Court reconsidered its initial ruling, in the exercise of its discretion, and, after a discussion off the record with counsel, allowed the three additional photographs.¹⁷ The Court properly exercised its discretion in finding the additional photographs were admissible under Rule 403.

2. State's DNA Experts

As a foundation to the Court's discussion of the admission of expert testimony by the State, the Court reviews the contentions of the parties as it applies to the discovery process in this case. The Court does so in an effort to address what is alleged to be a pattern of failure to properly disclose expert witnesses, in the hope that addressing it now will not only appropriately address this issue in this case, but also do so in a way that may prevent the issue from arising again in this case or any other.

The Defendant, in his initial discovery requests, propounded Request 2(i): "Please furnish a written summary or report of any testimony that the Prosecuting Attorney intends to introduce which includes the expert witness's opinions, the facts and date for those opinions, and the expert witness's qualifications pursuant to Rule 702, 703 or 705 of the Idaho Rules of Evidence."¹⁸ The initial discovery request 2(g) again reads: "Please furnish to the defendant a

¹⁶ Transcript, 449:9-18.

¹⁷ Transcript, 455:11-458:8. The Court allowed further objection by the Defendant, with a response by the State, and a full explanation by the Court as to the discretion it exercised in allowing the additional photographs. Transcript, 489:10-493:7.

¹⁸ The Court was unable to locate the actual discovery request as an attachment to the First Affidavit of Kent

written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses."¹⁹

Inexplicably, in its responses to the Defendant's discovery requests, the State listed the question it was responding to in request 2(i) as follows: "Please furnish to the defendant reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case."²⁰ Again, the State's responses list the 2(g) request as follows: "Please furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the Preliminary Hearing and/or trial, together with any record of prior felony convictions, which is within the knowledge of the prosecuting attorney after exercising due diligence, and a copy of statements made by the prosecution's witnesses."²¹

The State does not really offer any cogent explanation why the requests it responded to are different than those propounded. Counsel for the Defendant asserts that this is a pattern of intentional conduct by the State in numerous cases. The State responds, in part, as follows: "Defendant's blatant efforts to claim that the prosecutor on the case limited, modified, re-wrote, or obstructed compliance with I.C.R. 16 is improper and unsubstantiated. Defense counsel appears to be scrambling for any reason to blame the prosecutor for his own conduct. As far as

Reynolds, filed August 13, 2014. The Court has searched the record and the various affidavits and was also unable to locate the actual discovery request. The State does not contest that the initial discovery from the Defendant did include this specific expert witness disclosure request, and the Court considers the matter as agreed to by the parties. Nevertheless the Court felt it prudent to invite the Defendant's counsel to submit a supplemental affidavit with the actual discovery request, for purposes of completeness and clarity in the record. Defense counsel did so his Fifth Affidavit, filed January 5, 2015. The Court, with this addition to the record on these Motions, considers the Motions fully and finally submitted as of that date.

¹⁹ The same concerns and conclusions identified in fn. 17 are relevant here as well.

²⁰ First Affidavit of Kent Reynolds, Ex. A.

²¹ *Id.*

is known, the State received Discovery Requests from Defendant's counsel and as a courtesy Defendant's staff e-mailed a copy of the request to the State for the State's staff to respond to the best of its ability. If Defense counsel keeps changing the format of its requests and not courteously providing updated copies to the State for efficient responses then it is possible that clerical errors or inadvertent mistakes occur. . . ."²²

Defense counsel, in attachments to the Second Affidavit of Kent Reynolds, submits records from 14 cases, from 2010 through 2014, where identical discovery requests as 2(i) in this case were propounded but the State responded to a different question – in almost the identical way it did in this case.²³ There is no record here which would assist the Court in understanding why this circumstance appears to recur from time to time. Certainly there is not enough evidence to confirm the Defense position that this represents a continuing pattern to intentionally avoid the requirements of I.C.R. 16. But the circumstance appears to occur with sufficient frequency to cause considerable concern by this Court as to the internal controls and responsiveness to discovery by the State, particularly as to expert witnesses. The Court admonishes the State, in this case and any other where this has occurred, that significant effort is needed to correct this disturbing pattern and to ensure that when discovery requests are propounded by any defendant, that the State is responding to the precise question asked. It is inappropriate to suggest that when a defendant or counsel changes “the format of its request” the State is somehow excused from responding to the precise questions asked and, through clerical errors, inadvertence, or otherwise, is excused from responding to a completely different question.

²² Plaintiff's Response Brief, filed Sept. 11, 2014, p. 18.

²³ In two cases the State did list the request correctly, but the answer was not responsive to that request. *See State v. Trussell*, CR-13-534 and *State v. Lenon*, CR-13-3604. In two cases the State did identify two expert witnesses correctly, with opinions and qualifications, but did not do so in response to Request 2(i). *See State v. Lewis*, CR-10-18616 and *State v. Hansen*, CR-10-18681. This information is taken from the attachments to the Second Affidavit of Kent Reynolds.

The Court directs the office of the Bannock County Prosecuting Attorney to conduct an internal review of the processes used to respond to appropriately propounded discovery requests to ensure that the precise questions propounded are those which are responded to appropriately.

On the other hand, Defendant asserts that any suggestion that he had some obligation to compel discovery of expert witnesses is inappropriate and shifts the burden of discovery from the State to the Defendant. While the Court agrees that there is no legal obligation to seek an order compelling responses to discovery requests that have not been responded to, the fact remains that the rules appropriately allow a party to seek a waiver of any objections to discovery, and for sanctions when discovery has not been responded to. I.C.R. 16(f)(2). Certainly, it could be properly argued that the State's responses to Request 2(i) was not a response at all because the question responded to was completely different than the one propounded. Under those circumstances, the Defendant may be well served, in the future, to file a motion seeking appropriate sanctions for not responding to discovery at all. This is particularly true when defense counsel asserts that there is a pattern of this occurring. Instead, it appears that the strategic position has been to wait to see if any expert witnesses are ever disclosed or offered and then object to the witnesses' testimony based on a failure of disclosure. Whether this is an appropriate tactic is subject to debate, but it certainly can operate to the disadvantage of either side when reasonable alternatives for full disclosure to appropriate requests are available under the rules.

Having discussed the underlying discovery difficulties with this issue, the Court now addresses the specific admissibility of the State's DNA witnesses in this case. As noted, the State does not dispute that it failed to properly disclose its DNA witnesses as experts under Rule 16(b), for reasons more fully discussed above. However, the record is also clear that beginning

on June 14, 2013, the State did begin to identify Jamie Femreite from the ISP Forensic Lab in Meridian, Idaho, as a witness, although in response to Request 2(g), and also began to supply forensic lab reports and documents to the Defendant.²⁴ In September 2013, the State identified both Ms. Femreite and Rylene Nowlin, also of the ISP Forensic Lab in Meridian, Idaho, again in response to Request 2(g), and also provided additional lab reports from these two witnesses.²⁵

On September 11, 2013, after receipt of the lab reports previously mentioned, the Defendant filed a Motion for Payment of Expert Witnesses Fees from District Court Funds. The Motion stated that Defendant “intends to retain an expert witness in the area of DNA testing, analysis and interpretation to testify on behalf of the Defendant.” At a hearing on September 16, 2013, the Court asked the Defendant to submit the name of the proposed expert and the estimated costs to the Court under seal and the Court would then rule on the Motion. It does not appear that any submission was ever made by the Defendant.

On September 23, 2013, the Defendant filed a Third Discovery Motion which specifically sought DNA laboratory reports, notes, logs, technical DNA data and communications with all DNA analysts. The State responded to that discovery request on October 29, 2013, with a disc of such reports and responsive documents. On November 4, 2013, at a pretrial conference, the trial in this matter was continued at the request of the Defendant, ostensibly to seek expert witness assistance.

The Defendant asserts several reasons why the Court erred in allowing the State’s expert DNA witnesses to testify based on the State’s failure to formally comply with the expert witness disclosure requirements of I.C.R. 16(b)(7). First, Defendant claims that failure to comply with

²⁴ State’s First Supplemental Response to Discovery Request, with forensic lab reports and e-mails attached, all attached to the First Affidavit of Kent Reynolds.

²⁵ State’s Second Supplemental Response to Discovery Request, with additional forensic lab reports, attached to the First Affidavit of Kent Reynolds.

Rule 16(b) requires exclusion of the witness. Second, Defendant contends that the Court's rulings at the trial were inconsistent because the DNA witnesses were allowed to testify as experts, while the SANE nurses were only allowed to testify as fact witnesses. Third, Defendant argues that the Court's decision not to exclude the witnesses was in error because a sister court in the Sixth District had ruled, five days prior to this trial, that a defendant's expert who was not disclosed in compliance with Rule 16 was excluded from testifying as an expert. Fourth, Defendant argues that the Court erred in balancing the prejudice to the State that would result from exclusion and Defendant's right to a fair trial. Finally, Defendant asserts that the Court erred by considering the State's failure to disclose to have been a clerical mistake, rather than a deliberate failure.

Idaho Criminal Rule 2(a) indicates that the criminal rules are "intended to provide for the just determination of every criminal proceeding. They shall be construed to secure simplicity in procedure, fairness in administration and elimination of unjustifiable expense and delay." This purpose is properly considered in determining whether sanctions are appropriate for a failure to comply with the requirements of Rule 16, and if so, what those sanctions should be. *State v. Stradley*, 127 Idaho 203, 211, 899 P.2d 416, 424 (1995).

Idaho Criminal Rule 16(b)(6) states:

(6) *State Witnesses*. Upon written request of the defendant the prosecuting attorney shall furnish to the defendant a written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior felony convictions or any such person which is within the knowledge of the prosecuting attorney. The prosecuting attorney shall also furnish upon written request the statements made by the prosecution witnesses or prospective prosecuting witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of the case unless a protective order is issued as provided in Rule 16(k).

Rule 16(b)(7) is more specific to expert witnesses and states:

(7) *Expert Witnesses*. Upon written request of the defendant the prosecutor shall provide

a written summary or report of any testimony that the state intends to introduce pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence at trial or hearing. The summary provided must describe the witness's opinions, the facts and data for those opinions, and the witness's qualifications. Disclosure of expert opinions regarding mental health shall also comply with the requirements of I.C. § 18-207. The prosecution is not required to produce any materials not subject to disclosure under paragraph (f) of this Rule. This subsection does not require disclosure of expert witnesses, their opinions, the facts and data for those opinions, or the witness's qualifications, intended only to rebut evidence or theories that have not been disclosed under this Rule prior to trial.

The decision to impose sanctions where a discovery violation occurs under I.C.R. 16 is within the discretion of the trial court. *State v. Stradley*, 127 Idaho 203, 208, 899 P.2d 416, 421 (1995). I.C.R.16(k) explains the procedure where a party has failed to comply with a discovery request:

(k) Orders for Discovery. If a party has failed to comply with a request for discovery under this rule, the court upon motion of a party, may, order a party to permit the discovery or inspection, prohibit the discovery of part or all of the information, evidence or material sought to be discovered, or enter such other order as it deems just in the circumstances. An order of the court granting discovery under this rule shall specify the time, place and manner of making the discovery and inspection permitted and prescribe such terms and conditions as are just.

I.C.R. 16(k). This rule has been interpreted to allow courts to impose sanctions where a party fails to comply with a discovery order of the court. *State v. Stradley*, 127 Idaho 203, 211-12, 899 P.2d 416, 424-25 (1995).

It is appropriate for a trial court to “reject the most severe sanction and instead impose a narrowly tailored sanction against the individual responsible for the discovery violations,” in order to preserve the fairness of the trial. *State v. Winson*, 129 Idaho 298, 303, 923 P.2d 1005, 1010 (Ct. App. 1996). In *Winson*, the court found that a magistrate had abused his discretion by excluding defense witnesses who had not been properly disclosed, instead of selecting a less severe penalty, directed at the attorney who committed the error. The court found that the imposed sanctions improperly punished the defendant for his attorney’s errors. *Id.* The court explained that the magistrate should have evaluated whether the requested remedy penalized the

individual responsible for the discovery violation and whether a less severe sanction would have been appropriate. *Id.*

In *State v. Lamphere*, the Court found it was an abuse of discretion for a trial court to exclude a defense witness who was not properly disclosed without considering whether prejudice would result to the state if the witness were allowed to testify. 130 Idaho 630, 633-34, 945 P.2d 1, 4-5 (1997). This pattern was followed again in *State v. Harris*, where a trial court was once again reversed for not considering the prejudice to the state against the right of the defendant to a fair trial in excluding the defendant's improperly disclosed witness as a sanction. 132 Idaho 843, 847, 979 P.2d 1201, 1205 (1999).

The Court certainly agrees that the State must comply with discovery requests made under Rule 16(b)(6) and (7). It does appear that such requests were properly made and improperly responded to. However, Defendant is entirely incorrect in his assertion that the Court must impose the sanction of exclusion of the witnesses if the State fails to comply with the discovery rules. It appears that Idaho's appellate courts have adopted a policy of using sanctions under Rule 16(k) to punish the offending individual, not to exclude relevant, probative evidence. The Court notes that exclusion of the evidence is a possible sanction, but neither required nor favored. Here Defendant did not request any sanction other than the exclusion of the expert DNA testimony.

In evaluating what sanction was appropriate, the Court appropriately considered the prejudice that would result to the State if their witnesses were excluded and balanced that prejudice against the Defendant's right to a fair trial and his ability to defend himself. It is of note that the crime Defendant was charged with is not a victimless crime. In this case, the victim alleged that she had been raped in violation of her rights. The victim's interests are worthy of

consideration when the Court evaluates whether exclusion of evidence is justified as a sanction for a discovery violation under Rule 16. If the Court had elected to exclude the DNA evidence, the victim's right to have her rights protected through the State's prosecution could have been significantly impaired.

In further evaluating the prejudice to Defendant, the Court noted that the two complained of witnesses had been disclosed to Defendant at least seven (7) months before trial. Those witnesses were disclosed as fact witnesses, but it was disclosed that they would offer DNA testimony and evidence. Just as importantly, the State disclosed all the lab reports and other related DNA documents to the Defendant at least seven (7) months prior to trial. In fact, in response to those disclosures the Defendant sought very specific DNA information in the Third Discovery Motion filed September 23, 2013 and all that information was disclosed. Defendant certainly appears to have been aware of the possibility that DNA testimony and evidence would be admitted because he was granted a continuance in the trial to give him additional time to find and disclose his own expert witness to counter this testimony. However, at trial, defense counsel stated the following:

Mr. Reynolds: Your Honor, the other element that we need to address is the prejudice or unfair prejudice to the defendant at this point in time.

The Court: Okay. Tell me what that is.

Mr. Reynolds: Since there's been no expert witnesses in this area disclosed by the state, defense counsel has not pursued its own DNA expert to testify at trial.

Transcript, 513.

Since the Defendant had witness disclosures of two persons from the ISP Forensic Lab, plus numerous pages of reports, notes, communications, etc., all related to DNA testing, the Defendant was certainly on notice that DNA testing testimony would be offered by the state lab

persons.²⁶ The fact that Defendant sought specific DNA discovery information, made a motion for the cost of an expert DNA witness, and requested very specific DNA disclosures, clearly shows that Defendant was aware of the likelihood that DNA testimony would be offered, at least consistent with the lab information that had been disclosed. Defense counsel acknowledged that he had the reports of the witnesses and had received everything that would normally be required by I.C.R. 16(b)(7), except the qualifications of the witnesses. Transcript, 510:25-512:2; 513:11-17.

Given the inescapable likelihood that the State would be offering the testimony of Femreite and Nowlin, whose testimony would be consistent with the substantial laboratory information submitted to Defendant months before trial, the Defendant was left with several options.

First, the Defendant could have sought an order compelling further and more appropriate disclosures, or sanctions for the failure to do so, pursuant to I.C.R. 16(f)(2). Defendant strenuously objects to any suggestion that he had any type of duty to seek an order compelling disclosure, stating: "Because it's not my burden to provide that information nor to divine in some magical manner or heavenly intervention or whatever you want to call it the state's anticipated witnesses." Transcript 512:16-19. However, this argument defies logic. The Defendant wasn't required to "divine" or seek "heavenly intervention" to know with some certainty that these State witnesses would be offered. The State had disclosed them as witnesses, although not as fully as they should have. All of their opinions had been provided. No magic was necessary to know that they would be called. Thus, diligent preparation for that likely testimony may have justified, although certainly not required, a motion to compel or for sanctions.

²⁶ The State asserted that over 100 pages of notes from these two witnesses were provided months before trial, a contention with which the Defendant has not disagreed.

Second, the Defendant could have filed a timely motion in limine to exclude the witnesses. The Court's trial order, initially issued on February 12, 2013, requires motions in limine to be filed and heard at least seven (7) days prior to trial. Even though it was repeatedly clear that the State intended to call the state lab witnesses for DNA testimony, and this was known months in advance of the actual trial date, the Defendant failed to seek any relief from that intent as required by the trial order, instead waiting until the trial was well under way and the witnesses were close to testifying to even bring this issue to the Court's attention. The reason such motions are to be filed and heard in advance of trial is to give the Court a reasonable opportunity to review the evidence sought to be excluded without interrupting the orderly progression of the trial itself. Although this isn't always possible because unanticipated things occur during a trial, that certainly wasn't the case here. Thus, not only does it appear that the Defendant deliberately chose to delay raising the issue of the admissibility of this testimony as a matter of trial strategy, but also violated the Court's trial order in the process. The Court would have been well within its authority to simply deny the request to exclude the witnesses on the basis that it was untimely made. Nevertheless, the Court carefully considered the request and ruled on the merits of the issue.²⁷

Third, the Defendant could have chosen to consult with and/or secure his own DNA expert. The record clearly reflects that the Defendant contemplated and took steps towards doing this, including filing a motion for the cost of such an expert to be paid from the District Court

²⁷ Interestingly, in two of the cases cited by Defendant where the expert witness discovery questions were modified and not responded to, the State did disclose, in response to the fact witness question, two witnesses that certainly appeared to be expert witnesses. See 2nd Affidavit of Kent Reynolds, State v. Lewis, CR-2010-18616, State's Supplemental Response identifying B. Robb Redford and Dr. Karen Neill as fact witnesses, but with attached qualifications, and State v. Hansen, CR-2010-18681, State's First and Second Supplemental Responses which identify the same two witnesses. In both cases the documents attached to the affidavit reflect that the same defense counsel involved here filed a Motion in Limine, prior to trial, to exclude those disclosed witnesses, even though they were listed as fact witnesses. This simply demonstrates that counsel was aware of the appropriateness of filing such motions prior to trial when there has been an improper or incomplete disclosure.

fund and seeking a continuance of the trial to obtain and prepare such a witness. Whether such an expert was consulted with is unknown. Nevertheless, counsel's statement at trial that "[s]ince there's been no expert witnesses in this area disclosed by the state, the defense counsel has not pursued its own DNA expert to testify at trial"²⁸ is belied by the record. Considering the State's failure to fully and properly disclose the DNA witnesses as experts, it would have been perfectly appropriate and reasonable for the Defendant to obtain and be prepared with his own expert, anticipating that the Court may allow the State's witnesses to testify. Such a witness would have qualified as a rebuttal witness and would have been disclosed should the Court have allowed the State's witnesses to testify. The need for such a witness by the Defendant, and sufficient time to prepare such a witness, would also have been facilitated by a timely motion in limine to exclude the State's witnesses, which did not occur here.

Fourth, the Defendant could have taken the State's witness disclosures as they were, which listed the state lab witnesses as fact witnesses, and treated them as such. Under those circumstances, the Defendant would be permitted to contact the witnesses, have private discussions with them as to their potential testimony, ask them for their qualifications, etc. In other words, the Defendant was well within his rights to prepare fully for any testimony these witnesses might offer at trial. In fact, the record reflects that Defense counsel did just that, i.e., spoke with one of the witnesses prior to trial, but after receiving the lab reports.²⁹ The extent of the conversation is not clear, but there is nothing in the record to suggest that the conversation was limited in any way.

Fifth, the Defendant could simply wait until the middle of trial and move to have the witnesses excluded, which is what happened here. Considering the fact that it was readily

²⁸ Transcript, 513:7-10.

²⁹ Transcript, 519:6-13.

obvious that the State intended to offer DNA witness testimony, and further considering the fact that the witnesses and their reports had been disclosed for months in advance of the trial, it should have been a very real concern that they would be allowed to testify, even though the disclosures were not as complete as they should have been under I.C.R. 16(b)(7).

The Court makes this review of potential options not to identify any failures of defense counsel or to excuse the State in its failure to fully comply with the requirements of I.C.R. 16(b)(7), but to fully evaluate the potential prejudice to the defendant for the failure to fully disclose the expert witnesses in accordance with the rule. Rule 16(b)(7) requires a summary or report of a witness's opinions, the facts and data for those opinions, and the witness's qualifications. In this case the only thing not provided months in advance of trial was the witness's qualifications. Those could have been obtained in a variety of ways as noted above. Counsel could have sought additional time to review the qualifications during the trial or to be allowed to confer with the witnesses about their qualifications. No such request was made. The Defendant has failed to identify how he was prejudiced by the lack of expert witness qualifications. The Court could not and does not conclude that the Defendant suffered unfair prejudice by allowing the State's DNA expert witnesses to testify.

The Court properly concluded that the use of the sanction of exclusion of the witnesses was not mandatory, was within the Court's discretion, and would have been excessive in this case. Relevant evidence would have been kept from the jury, even though Defendant had ample opportunity to prepare to confront that evidence. The Court's response was to limit any testimony offered by those witnesses to opinions, facts and data that had been previously disclosed, thus preventing the State from attempting to expand the testimony beyond that which

had been fully disclosed.³⁰

Defendant argues that the Court should have excluded the State's witnesses because that sanction had been utilized in another case within the 6th Judicial District by Judge Nye five days prior to the trial at issue here. Defendant offers the affidavit of Lindsay Blake, Bannock County deputy public defender, with attached documents from that case, including Judge Nye's opinion excluding a defense expert witness. Defendant's argument on this point is without merit.

First, the determination of proper rulings and sanctions on the admissibility of evidence is a discretionary matter for trial courts. In exercising that discretion, it is likely that the sanctions will vary from case to case and from witness to witness. Additionally, while comity between courts is a reasonable and appropriate concept, and a practice followed in this district as reasonably possible, differences in facts, issues and circumstances often lead to different results; and a district court is not bound by a decision of its sister district courts. Only appellate decisions bear precedential weight. Finally, this Court's review of Ms. Blake's affidavit and the accompanying documents reveal significant distinctions between Judge Nye's case and decision and issues presented here. According to Judge Nye's decision, there were two primary grounds upon which he granted the State's Motion in Limine to exclude the expert witness testimony of Dr. Traughber in State v. Edmo, CR-13-3258. First, although Dr. Traughber had been identified as a potential defense expert witness some months before trial, his actual report and qualifications were not disclosed until March 17, 2014. The trial date was May 6, 2014. Thus, the disclosure was less than 7 weeks prior to trial, not the 7 months we are dealing with in this case. Secondly, Dr. Traughber's testimony was directed to the mental health of the defendant in that case. I.C.R. 16(b)(7) has specific disclosure requirements for mental health issues, pursuant to I.C. § 18-207. The disclosure of Dr. Traughber's report did not comply with the statutory

³⁰ Transcript, 522:15-19.

requirements, including disclosure at least 90 days before trial. In addition, the opinions of Dr. Traugher dealt with issues that Judge Nye felt were not relevant to the case. Finally, Judge Nye concluded that the testimony that was proposed to be offered that was not in Dr. Traugher's report and had never been fully disclosed. In short, there is nothing in the *State v. Edmo* decision of Judge Nye that is at all comparable to the circumstances presented in this case.

Defendant argues that this Court's own rulings on sanctions under Rule 16 in this trial are inconsistent because the Court prevented two SANE nurses from testifying as experts and limited their testimony to fact testimony because they were not properly disclosed. The Defendant mischaracterizes the Court's rulings. First, there was never any attempt by the State to have the SANE nurses offer expert opinion testimony so there was no appropriate challenge to the disclosures.³¹ Secondly, the training of the SANE nurses for purposes of conducting the examination they did to collect evidence to be examined and evaluated by experts, was very similar to the training police officers receive to conduct their investigations³² or doctors who testify to their qualifications to provide medical treatment and diagnosis. These witnesses were no different than any other nurse who testifies to professional services they provide as nurses, all with a foundation of the training and experience they have to provide those services. In this case, the nurses had specialized nursing training for rape case examinations and offered their qualifications to do the same. This did not turn them into expert witnesses who are offering the types of opinions contemplated by I.C.R. 16(b)(7). The SANE nurses were disclosed as factual witnesses and did give factual testimony concerning the qualifications and training to conduct the examinations they did of both the Defendant and the victim and further factual testimony

³¹ Transcript, 425:12-16.

³² In fact, several police officers testified in this case as to their part of the investigation, etc., all of whom testified to their training and experience in conducting police investigations, and all without objection from the Defendant for failure to disclose them as expert witnesses under I.C.R. 16(b)(7).

concerning those actual examinations. The testimony of the nurses assisted in laying a proper foundation for the evidence they collected to later be introduced as DNA evidence. They also took certain photographs and were able to support the introductions of the photographs they took, again factual testimony. Thus, the Court was correct in ruling that these two SANE nurses were fact witnesses, not expert witnesses, and that they could not offer any expert opinion testimony.³³ There is no inconsistency between these rulings and those applicable to the DNA expert witnesses.

The Court notes that the State is clearly at fault here, and it would have been within the Court's discretion to impose further sanctions, even personally against the attorney(s) who failed to properly disclose the witnesses.³⁴ See *State v. Stradley*, 127 Idaho 203, 211-12, 899 P.2d 416, 424-25 (1995). Defendant asserts that this is not the first time that the State, and the prosecutor in this particular case, have not complied with Rule 16, and that violations continue. It appears that this may be true.³⁵ Even with that in mind, the Court found at trial and continues to find that exclusion of relevant evidence from the consideration of the jury to be an excessive sanction. If defense attorneys believe this conduct is intentional and ongoing, then appropriate sanctions should be requested in those instances. The discovery rules should not be used to prevent a fair trial from occurring where both parties have an opportunity to present their evidence to the jury. In this case, Defendant did not request any sanctions besides exclusion and the Court did not decide to impose any other sanction sua sponte, except to limit the testimony to what had been previously disclosed. Thus, the Court concludes that it acted within its discretion not to exclude

³³ Transcript 423:9-427:24; 520:14-522:8.

³⁴ The Defendant claims that the Court agreed with the State that the failure to properly disclose expert witnesses was a clerical oversight, and challenges that conclusion. There is nothing in the record to suggest that this Court agreed with the State's contention of a clerical issue. This was not a clerical issue. Nevertheless, for the substantive reasons outlined herein, the Court properly allowed the testimony of the State's DNA expert witnesses.

³⁵ See discussion at pp. 31-34, *infra*.

the DNA testimony and related evidence.

For the reasons stated above, the Court concludes that even if an error in evidentiary rulings were a permissible basis to order a new trial, the Court did not err here.

D. Failure to Perform Certain Lab Tests

Defendant, in his Fourth Motion, has indicated that he believes Defendant's rights were violated because certain DNA tests were not performed by the Idaho State Forensics Lab. The lab employees who testified at trial indicated that the lab lacks the capabilities to perform certain tests.

First, the Court notes again that this motion has been filed so late in these proceedings that it is untimely under Rule 34 and the stipulated continuance initially granted in this case. More importantly, Defendant has failed to cite any authority for his position. The Court will not make Defendant's arguments for him, particularly after deadlines have past. Additionally, the Court fails to see how this claim fits within one of the permissible grounds for which a new trial may be granted under Section 19-2406.

For the reasons stated above, the Court concludes that relief is not proper based on the allegations in Defendant's Fourth Motion.

E. Insufficiency of the Evidence to Support the Verdict

Defendant's next contention is that the evidence presented at trial was insufficient to support the verdict. At trial, Defendant presented a Motion for Acquittal under Rule 29. The Court denied the motion finding that there was sufficient evidence for the jury to consider the issues presented to it.

A court reviewing a motion for new trial is in the virtually identical position as it is in considering a motion for judgment of acquittal. The Court must determine "whether there was substantial evidence upon which a trier of fact could have found the essential elements of the

crime beyond a reasonable doubt.” *State v. Hoyle*, 140 Idaho 679, 684, 99 P.3d 1069, 1074 (2004).³⁶

The evidence is reviewed in the light most favorable to the prosecution. *State v. Adamcik*, 152 Idaho 445, 460, 272 P.3d 417, 432 (2012), reh'g denied (Feb. 8, 2012), *cert. denied*, 133 S. Ct. 141, 184 L. Ed. 2d 68 (U.S. 2012).

The Fourteenth Amendment of the United States Constitution guarantees the right to due process, and the U.S. Supreme Court has held that as a part of that due process, “no person shall be made to suffer the onus of a criminal conviction except upon sufficient proof-defined as evidence necessary to convince a trier of fact beyond a reasonable doubt of the existence of every element of the offense.”

State v. Adamcik, 152 Idaho 445, 460, 272 P.3d 417, 432 (2012), reh'g denied (Feb. 8, 2012), *cert. denied*, 133 S. Ct. 141, 184 L. Ed. 2d 68 (U.S. 2012) (quoting *Jackson v. Virginia*, 443 U.S. 307, 316, 99 S.Ct. 2781, 2787, 61 L.Ed.2d 560, 571 (1979)).

“Evidence is substantial if a ‘reasonable trier of fact would accept it and rely upon it in determining whether a disputed point of fact has been prove[n].’” *State v. Severson*, 147 Idaho 694, 712, 215 P.3d 414, 432 (2009) (quoting *State v. Mitchell*, 130 Idaho 134, 135, 937 P.2d 960, 961 (Ct.App.1997)). “In conducting its analysis, ‘the Court is required to consider the evidence in the light most favorable to the State,’ but will not substitute its ‘judgment for that of the jury on issues of witness credibility, weight of the evidence, or reasonable inferences to be drawn from the evidence.’” *State v. Goggin*, 157 Idaho 1, 333 P.3d 112, 116 (2014) (quoting *Adamcik*, 152 Idaho at 460, 272 P.3d at 432). Because the court may not substitute its judgment for that of a jury, “substantial evidence may exist even when the evidence presented is solely circumstantial or when there is conflicting evidence.” *State v. Severson*, 147 Idaho 694, 712, 215 P.3d 414, 432 (2009).

Here, this Court already reviewed Defendant’s motion for acquittal applying the above stated standard. Without reviewing each individual piece of evidence referred to by the

³⁶ See also *State v. Hickman*, 119 Idaho 366, 806 P.2d 959 (Ct.App. 1991).

Defendant, the Court concludes that there was substantial, albeit conflicting, evidence upon which the jury reasonably could have found, and did find the Defendant guilty of the crime of battery with intent to commit rape, beyond a reasonable doubt. Thus, the Court concludes that a new trial should not be granted on this basis.

E. Accumulation of Errors

Defendant's final assertion is that the accumulation of errors requires that he be granted a new trial because his trial was not fair. This does not appear to be a permissible basis for a trial court to grant a new trial under Section 19-2406. The Court notes that this doctrine may be applied by appellate courts reviewing trial court decisions, as cited by Defendant. *See State v. Montoya*, 140 Idaho 160, 90 P.3d 910 (Ct. App. 2004). Nevertheless, in order for this to be a legitimate basis for a new trial, this Court would have had to find a number of harmless errors, the accumulation of which rises to a conclusion that the trial was not fair. This decision reflects the Court's conclusion that the errors asserted by the Defendant are not errors at all. A couple of issues were identified as potentially harmless, even if valid, but there were no conclusions that errors actually occurred that were nothing but harmless. Therefore, the Court concludes that there was not an accumulation of errors in this case, that the verdict should stand, and a new trial need not be ordered.

II. Motion for Disqualification

Defendant asserts that the Court should be disqualified on the basis of judicial bias against the Defendant. Defendant argues that the alleged errors of the Court demonstrate a bias by the Court in favor of the State and against Defendant. Defendant cites Idaho Rules of Civil Procedure 40(2) as authority for his motion. This is not a civil case. The Rules of Criminal Procedure govern here. Therefore, the motion should have been brought under Idaho Criminal Rule 25(b), and the Court will evaluate the motion under that rule.

Rule 25(b) allows a judge to be disqualified for cause when “[t]hat judge . . . is biased or prejudiced for or against any party or that party's case in the action.” Subsection (c) permits the motion to be made at any time. “The disposition of such a motion is within the discretion of the trial court.” *State v. Griffith*, 144 Idaho 356, 361, 161 P.3d 675, 680 (Ct. App. 2007). “A motion for disqualification should be granted only where there is actual prejudice against the litigant of such a nature as to render it improbable that the presiding judge could or would give the litigant a fair and impartial trial.” *State v. Griffith*, 144 Idaho 356, 361, 161 P.3d 675, 680 (Ct. App. 2007) (internal quotation omitted). “The fact that a trial court makes rulings that a party does not like is not, in and of itself, evidence of impermissible bias.” *State v. Griffith*, 144 Idaho 356, 361, 161 P.3d 675, 680 (Ct. App. 2007). In *Griffith*, the Court went as far as to find that even “[a] belief of the defendant's guilt on the part of a trial court becomes problematical only if it unfairly infects the district court's rulings during the pendency of the proceedings, and Griffith has not shown that to be true here.” *State v. Griffith*, 144 Idaho 356, 361, 161 P.3d 675, 680 (Ct. App. 2007).

Here, the Court remained impartial throughout the entire proceeding.³⁷ The Court

³⁷ The Court specifically responds to one particular assertion which Defendant refers to in support of his contention that the Court was biased against him. On the second day of trial, May 20, 2014, the Court took a recess at 4:25 p.m. The jury was reseat at 4:42 p.m. SANE nurse Wilcox was then called to testify. After 9 questions, and just 2-4 minutes of testimony, Defense counsel asked that the jury be excused so he could move to exclude the nurse from testifying at all. Transcript 419:23-422:21. The jury was excused. Defendant characterizes the circumstances as follows: “Immediately the State began asking expert witness qualification questions. Defendant objected and asked for a recess to address the motion to exclude Wilcox from testifying. As soon as the jury was out of the court, the court began yelling at defense counsel and engaged in a verbal tirade rebuking defense counsel for bringing his motion.” First Motion, p. 5.

The Court acknowledges raising its voice with regard to the timing of the motion to exclude this witness, not necessarily a best practice. However, the complete “verbal tirade” was as follows:

“The Court: Reynolds, is there any reason you could not have made this motion prior to me bringing the jury into the room?”

Mr. Reynolds: Probably not.

The Court: Then do it from now on. I am not going to bring that jury in this room and let them sit here for two minutes and then excuse them while we have – now you have your motions. If you have motions to bring, I told you before this trial started, you advise me of it, and we’ll take it up when the jury’s out of the room. Now make your motion.”

First, this exchange does not constitute a “verbal tirade.” It reflects the frustration of the Court with the

concludes that it ruled fairly and consistently in all instances, as required by the law and the rules of evidence. The simple fact that some rulings were not in Defendant's favor does not demonstrate that the Court held bias either for or against Defendant. The Court merely applied the law as required. As demonstrated above, the Court did not commit the errors complained of. The Court concludes that it has no bias either for or against either party, and that it will continue to decide the issues in this case without prejudice to either party.

CONCLUSION

For the reasons stated above, Defendants' First, Second, Third, and Fourth Motions to Set Aside Verdict and Motions for New Trial are DENIED. Additionally, Defendant's Motion for Disqualification is DENIED. Sentencing will proceed in this matter.

IT IS HEREBY ORDERED that a psychosexual evaluation shall be completed on the Defendant. Dr. Linda Hatzenbuehler shall complete said evaluation. The Defendant shall also submit to a full disclosure polygraph. Counsel for the Defendant shall contact Dr. Hatzenbuehler to schedule interview for evaluation. The costs of evaluation and polygraph shall be paid for by the District Court Fund to be reimbursed by the Defendant at a later date.

IT IS HEREBY ORDERED that a pre-sentence investigation report shall be made prior to sentencing and this matter is hereby referred to the Idaho State Board of Corrections for such report. The Defendant shall pay an amount to be determined by the Department of Correction, not to

failure of counsel to make motions when the jury is in recess and not shortly after they return to court, a direction counsel acknowledge receiving prior to trial. The failure to follow this direction impairs the orderly process of the court and jury during the trial. Nurse Wilcox testified at the preliminary hearing. Defendant knew what she was likely to testify to. Counsel acknowledged that there was no reason he could not have made his motion prior to the jury returning into court. His motion in limine to exclude the witness could and should have been made at least seven (7) days prior to trial. Nevertheless, the Court's frustration with counsel's failure to comply with the directive to make such motions without having to excuse the jury does not demonstrate any bias against the Defendant. And Defendant's assertion that the Court's frustration stemmed from making the motion to exclude at all is completely without merit. The frustration was with the timing of the motion, which the record reflects was fully argued and carefully considered. No prejudice or bias is shown by this incident.

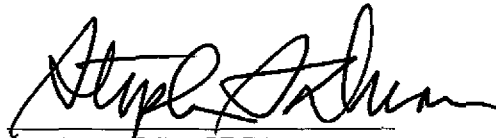
exceed \$100.00, for the cost of conducting the presentence investigation and preparing the presentence investigation report. The amount will be determined by the Department and paid by the Defendant in accordance with the provisions of §19-2516.

IT IS FURTHER ORDERED that the DUE DATE for said pre-sentence investigation report shall be MONDAY, MARCH 16, 2015 NO LATER THAN 5 P.M. WITH COPIES DELIVERED TO THE COURT AND COUNSEL BY SAID DATE.

IT IS FURTHER ORDERED that the SENTENCING in this matter be and the same is hereby set for MONDAY, MARCH 23, 2015 AT THE HOUR OF 9:30 A.M. at the Bannock County Courthouse, Pocatello, Idaho.

IT IS FURTHER ORDERED that if in this case restitution to victims is an appropriate consideration, both the defense and State are to ascertain the nature and the extent of injuries or damages and be prepared at the sentencing hearing to advise the Court in that regard.

DATED *January 23, 2015*


STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23 day of Jan, 2015, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Division of Community Corrections

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

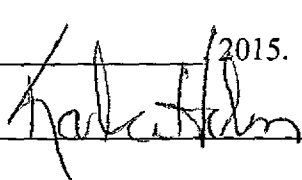
Bannock County Jail

☐ U.S. Mail
☐ Email
☒ Hand Deliver
☐ Facsimile

Dr. Linda Hatzenbuehler

☒ U.S. Mail
☐ Email
☐ Hand Deliver
☐ Facsimile

DATED this 23 day of Jan, 2015.


Deputy Clerk

ORIGINAL OF THIS DOCUMENT TO IDOC

Assigned to: _____

Assigned: _____

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2015 JAN 23 AM 10:35

Sixth Judicial District Court, State of Idaho
In and For the County of Bannock
ORDER FOR PRESENTENCE REPORT AND EVALUATIONS

DEPUTY CLERK

STATE OF IDAHO
Plaintiff,
vs.

Aman F Gas
425 Hyde Ave
Pocatello, ID 83201

Case No: CR-2013-0000864-FE

ORDER FOR PRE - SENTENCE INVESTIGATION
REPORT

CHARGE(s):

118-911 Battery With Intent to Commit a Serious Felony

ROA : PSIO1- Order for Presentence Investigation Report

On this Friday, January 23, 2015, a **Pre-sentence Investigation Report** was ordered by the Honorable Stephen S Dunn to be completed for Court appearance on:

Monday, March 23, 2015 at: 09:30 AM at the above stated courthouse.

☐ Behavioral Health Assessments waived by the Court (PSIO1 ROA code)

☐ Waiver under IC 19-2524 2 (e) allowing assessment and treatment services by the same person or facility

Other non- §19-2524 evaluations/examinations ordered for use with the PSI:

☐ Sex Offender ☐ Domestic Violence ☐ Other _____ Evaluator:

PLEA AGREEMENT: State recommendation

WHJ/JOC ☐ Probation ☐ PD Reimb ☐ Fine ☐ ACJ ☐ Restitution ☐ Other:

DEFENSE COUNSEL: Kent V Reynolds _____

PROSECUTOR: JaNiece Price _____

THE DEFENDANT IS IN CUSTODY: ☒ YES ☐ NO If yes where: _____

DO YOU NEED AN INTERPRETER? ☒ NO ☐ YES if yes, what is the language? _____

Date: Jan 23, 2015 Signature: _____

Stephen S Dunn
Judge

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2015 JAN 28 PM 3:22

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN GAS,

Defendant.

BY [Signature]
DEPUTY CLERK

MINUTE ENTRY & ORDER

On January 26, 2015, the above named Defendant appeared in Court with his counsel, Kent V. Reynolds, for a hearing on Defendant's Motion for Transcripts. Ryan Godfrey, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheri Nothelphim performed as Court Reporter for this proceeding.

The Court heard argument from counsel regarding the Motion.

The Court **DENIED** the Motion for Transcripts for the reasons stated on the record in open court.

The Court advised the Defendant of his rights per Estrada regarding the psychosexual evaluation.

DATED January 27, 2015.

[Signature]

STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 28 day of Jan, 2015, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver
☐ Facsimile

Bannock County Jail

☐ U.S. Mail
☐ Email
☒ Hand Deliver
☐ Facsimile

DATED this 28 day of Jan, 2015.

Kate Helton
Deputy Clerk

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2015 MAR 12 PM 1:59

BY KH
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN GAS,

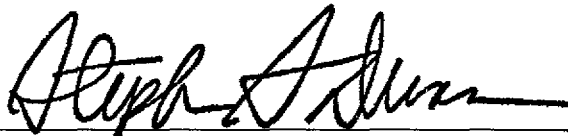
Defendant.

ORDER RE-SETTING SENTENCING

GOOD CAUSE APPEARING;

The SENTENCING in the above entitled matter be and the same is re-set before the undersigned District Judge for MONDAY, APRIL 13, 2015, AT THE HOUR OF 9:30 A.M., at the Bannock County Courthouse, Pocatello, Idaho.

DATED March 12, 2015



STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12 day of March, 2015, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

- ☐ U.S. Mail
- ☒ Email
- ☐ Hand Deliver
- ☐ Facsimile

Kent Reynolds
Bannock County Public Defender

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- ☒ Email
- ☐ Hand Deliver
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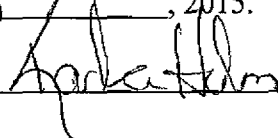
Bannock County Jail

- ☐ U.S. Mail
- ☒ Email
- ☐ Hand Deliver
- ☐ Facsimile

Division of Community Corrections

- ☐ U.S. Mail
- ☒ Email
- ☐ Hand Deliver
- ☐ Facsimile

DATED this 12 day of March, 2015.


Deputy Clerk

COURT MINUTES

CR-2013-0000864-FE 2015 APR 13 PM 1:34

State of Idaho vs. Aman F Gas

KH
DEPUTY CLERK

Hearing type: Sentencing

Hearing date: 4/13/2015

Time: 11:24 am

Judge: Stephen S Dunn

Courtroom: Room #301, Third Floor

Court reporter: Rodney Felshaw

Minutes Clerk: Karla Holm

Tape Number:

Defense Attorney: Kent Reynolds

Prosecutor: JaNiece Price

1125	Sentencing; Reynolds corrections to PSI;
1135	Reynolds argument
1147	State recommendations
1152	Victim statement
1154	Def decline statement; Court
1159	4 yrs fixed; 6 yrs indeterminate; remanded; cc; \$1000 fine; restititon 30 days; dna; sex offender register; NCO continued through parole; PD; appeal

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2015 APR 13 PM 1:34

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
DEPUTY CLERK

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register #CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMANE GAS.

DOB: [REDACTED]

SSN: [REDACTED]

Defendant.

MINUTE ENTRY, JUDGMENT
OF CONVICTION & COMMITMENT
ORDER

On May 22, 2014, the Defendant was found guilty of the charge of **BATTERY WITH INTENT TO COMMIT RAPE, I.C. §18-911;**

On April 13, 2015, the Defendant appeared with his counsel, Kent V. Reynolds, for sentencing. JaNiece Price, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Rodney Felshaw performed as Court Reporter for this proceeding.

A pre-sentence investigation report was received and reviewed by the Court. The Court received corrections and objections to the report from the Defendant's counsel. The Court heard comments and recommendations from respective counsel, and a statement from the Defendant.

Being fully advised in the premises,

Register No. CR-2013-00864-FE

Minute Entry, Judgment of Conviction & Commitment Order

Page 1

IT IS HEREBY ORDERED that the Defendant be and is herewith sentenced to the custody of the Idaho Department of Correction pursuant to Idaho Code 19-2513, for a **UNIFIED TERM OF TEN YEARS OF WHICH FOUR YEARS ARE FIXED AND A SUBSEQUENT INDETERMINATE TERM OF SIX YEARS**. During the fixed term of confinement, said Defendant shall not be eligible for parole or discharge, credit or reduction of sentence for good conduct, except as provided by Idaho Code Section 20-1-1(d).

IT IS FURTHER ORDERED that the Defendant will be given credit for any time served for any time served on this charge (excluding time spent while in the custody of the IDOC). The Defendant was arrested in this matter on January 20, 2013 and remained in custody until the date of sentencing on April 13, 2015, therefore receiving credit for 813 days in the Bannock County Jail.

IT IS FURTHER ORDERED the Defendant shall pay the following upon his release:

\$ 240.50	Court Costs
\$1,000.00	Fine
\$ 100.00	DNA sample

The Defendant shall pay the sum of \$750.00 to the County for costs of defense, pursuant to Idaho Code 19-854. The sum so paid shall be remitted to the County Auditor who shall deposit said amount directly into the District Court Fund in and for Bannock County.

IT IS FURTHER ORDERED that the No Contact Order previously ordered in this matter

shall be continued for the duration of the Defendant's term of incarceration and any parole term imposed thereafter.

IT IS FURTHER ORDERED that the said Defendant be and he is hereby **REMANDED** to the custody of the Bannock County Sheriff to be by him delivered to the proper officer or officers and to be by said officer or officers conveyed to said site.

Defendant was advised of his right to appeal, and that said appeal must be filed with the Idaho Supreme Court no later than 42 days from the date the sentence is imposed. Defendant was further advised that a person who is unable to pay the costs of an appeal has the right to apply for leave to appeal *in forma pauperis*.

COMMITMENT ORDER

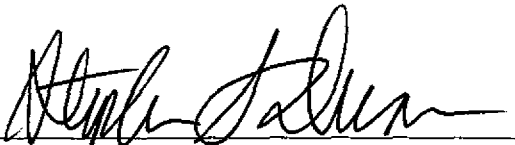
Now, on this 13th day of April, 2014, the Bannock County Prosecuting Attorney with the Defendant and his counsel, Kent V. Reynolds, came into Court. The Defendant has been found guilty of the crime of **BATTERY WITH INTENT TO COMMIT RAPE, I.C. §18-911**.

The Defendant was asked by the Court if he had any legal cause to show why judgment should not be pronounced against him to which he replied that he had none. And no sufficient cause being shown or appearing to the Court;

NOW, THEREFORE, the said Defendant having been convicted of the crime of **BATTERY WITH INTENT TO COMMIT RAPE, I.C. §18-911**, it is hereby ordered,

considered and adjudged that the said Defendant, **AMAN F. GAS**, be imprisoned and kept at a site designated by the Idaho State Board of Correction for a **UNFIED TERM OF TEN YEARS OF WHICH FOUR YEARS ARE FIXED AND A SUBSEQUENT INDETERMINATE TERM OF SIX YEARS**, commencing from the date of his sentence.

DATED April 13, 2015


STEPHEN S. DUNN
District Judge

NAME: AMAN F. GAS

DOB:

SS#

DATE OF OFFENSE: January 20, 2013

STATE OF IDAHO)


COUNTY OF BANNOCK)

I, Dale Hatch, Clerk of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Bannock, do hereby certify the foregoing to be a full, true and correct copy of the Judgment duly made and entered on the Minutes of the said District Court in the above entitled action, and that I have compared the same with the original and the same is a correct transcript therefrom and/or the whole thereof.

ATTEST my hand and the seal of said District Court on the 13th day of April, 2015.

DALE HATCH, Clerk

By


Deputy Clerk

Case No. CR-2013-00864-FE

MINUTE ENTRY & ORDER/COMMITMENT ORDER

Page 5

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13 day of April, 2015, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver

Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver

Records Administration

☐ U.S. Mail
☒ Email
☐ Hand Deliver

Division of Community Correction

☐ U.S. Mail
☒ Email
☐ Hand Deliver

Court Services

☐ U.S. Mail
☒ Email
☐ Hand Deliver

DATED this 13 day of April, 2015.

Kendra Helm
Deputy Clerk

Name: Aman F Gas
DOB: [REDACTED]
Case #: CR-2013-0000864-FE
Citation Number:

Release Date: _____
FILED BANNOCK COUNTY CLERK OF DISTRICT COURT

2015 APR 13 PM 1:34
KJ
DEPUTY CLERK

ORDER OF COMMITMENT
SIXTH DISTRICT COURT, BANNOCK COUNTY, STATE OF IDAHO

TO THE SHERIFF OF BANNOCK COUNTY:

Aman F Gas having this 13th day of April, 2015 had a Sentencing in the District Court on the charge(s) of:

Warrant: N/A Bond: Dismissed

Charge(s):

Rape-Resists but Resistance is Overcome by Force or Violence

Bond:

Bond:

Bond:

Bond:

Bond:

Amended to: Battery With Intent to Commit a Serious Felony

Special Instructions _____

☐ Court Services

Is hereby ordered to serve 4 yrs fixed; 6 yrs indeterminate

☐ credit for _____ days

☐ credit to begin on _____

☐ consecutive with _____

☐ concurrent with _____

☐ good time

Future Commitment

Jail sentence to Begin:

Jail sentence to End:

To be completed no later than:

Special Instructions:

☐ Work Release Special Instructions

The jail is ORDERED to monitor schedule, verify worksite and confirm transportation to and from work site.

☐ SCILD or ☐ Trustee ☐ 1x1 ☐ 2x1 to be completed by _____

Special Instructions

Sign up times for SCILD: Tuesday, Thursday, Friday, and Sunday 0700 to 0745; Wednesday 0700-1500. Do not wait until the last day to sign up! Call 236-7162 for more information.

Next Court Appearance: None

It is hereby ordered that you receive him/her into our custody and detain him/her until such time you are furnished an Order of Release or the defendant has satisfied the penalty as imposed by the Court.

Dated: 4/13/2015 Judge Stephen S. Dunn

Final Disposition _____ Date _____ Deputy _____

2015 APR 17 AM 10:06

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register #CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN E. GAS,

DOB: [REDACTED]

SSN: [REDACTED]

Defendant.

AMENDED

MINUTE ENTRY, JUDGMENT

OF CONVICTION & COMMITMENT

ORDER

On May 22, 2014, the Defendant was found guilty of the charge of **BATTERY WITH INTENT TO COMMIT RAPE, I.C. §18-911;**

On April 13, 2015, the Defendant appeared with his counsel, Kent V. Reynolds, for sentencing. JaNiece Price, Bannock County Deputy Prosecuting Attorney, appeared on behalf of the State of Idaho.

Rodney Felshaw performed as Court Reporter for this proceeding.

A pre-sentence investigation report was received and reviewed by the Court. The Court received corrections and objections to the report from the Defendant's counsel. The Court heard comments and recommendations from respective counsel, and a statement from the Defendant.

Being fully advised in the premises,

Register No. CR-2013-00864-FE

Minute Entry, Judgment of Conviction & Commitment Order

Page 1

IT IS HEREBY ORDERED that the Defendant be and is herewith sentenced to the custody of the Idaho Department of Correction pursuant to Idaho Code 19-2513, for a **UNIFIED TERM OF TEN YEARS OF WHICH FOUR YEARS ARE FIXED AND A SUBSEQUENT INDETERMINATE TERM OF SIX YEARS.** During the fixed term of confinement, said Defendant shall not be eligible for parole or discharge, credit or reduction of sentence for good conduct, except as provided by Idaho Code Section 20-1-1(d).

IT IS FURTHER ORDERED that the Defendant will be given credit for any time served for any time served on this charge (excluding time spent while in the custody of the IDOC). The Defendant was arrested in this matter on January 20, 2013 and remained in custody until the date of sentencing on April 13, 2015, therefore receiving credit for 813 days in the Bannock County Jail.

IT IS FURTHER ORDERED the Defendant shall pay the following upon his release:

\$ 240.50	Court Costs
\$1,000.00	Fine
\$ 100.00	DNA sample

The Defendant shall pay the sum of \$750.00 to the County for costs of defense, pursuant to Idaho Code 19-854. The sum so paid shall be remitted to the County Auditor who shall deposit said amount directly into the District Court Fund in and for Bannock County.

IT IS FURTHER ORDERED that the No Contact Order previously ordered in this matter

shall be continued for the duration of the Defendant's term of incarceration and any parole term imposed thereafter.

IT IS FURTHER ORDERED that the Defendant shall be required to register as a sexual offender in the county in which he resides within 48 hours after being released from custody.

IT IS FURTHER ORDERED that the said Defendant be and he is hereby **REMANDED** to the custody of the Bannock County Sheriff to be by him delivered to the proper officer or officers and to be by said officer or officers conveyed to said site.

Defendant was advised of his right to appeal, and that said appeal must be filed with the Idaho Supreme Court no later than 42 days from the date the sentence is imposed. Defendant was further advised that a person who is unable to pay the costs of an appeal has the right to apply for leave to appeal *in forma pauperis*.

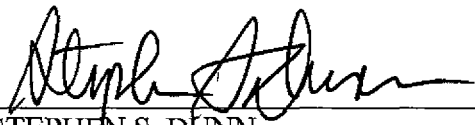
COMMITMENT ORDER

Now, on this 13th day of April, 2014, the Bannock County Prosecuting Attorney with the Defendant and his counsel, Kent V. Reynolds, came into Court. The Defendant has been found guilty of the crime of **BATTERY WITH INTENT TO COMMIT RAPE, I.C. §18-911**.

The Defendant was asked by the Court if he had any legal cause to show why judgment should not be pronounced against him to which he replied that he had none. And no sufficient cause being shown or appearing to the Court;

NOW, THEREFORE, the said Defendant having been convicted of the crime of **BATTERY WITH INTENT TO COMMIT RAPE, I.C. §18-911**, it is hereby ordered, considered and adjudged that the said Defendant, **AMAN F. GAS**, be imprisoned and kept at a site designated by the Idaho State Board of Correction for a **UNFIED TERM OF TEN YEARS OF WHICH FOUR YEARS ARE FIXED AND A SUBSEQUENT INDETERMINATE TERM OF SIX YEARS**, commencing from the date of his sentence.

DATED April 13, 2015



STEPHEN S. DUNN
District Judge

NAME: AMAN F. GAS

DOB

SS#

DATE OF OFFENSE: January 20, 2013

STATE OF IDAHO

COUNTY OF BANNOCK

I, Dale Hatch, Clerk of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Bannock, do hereby certify the foregoing to be a full, true and correct copy of the Judgment duly made and entered on the Minutes of the said District Court in the above entitled action, and that I have compared the same with the original and the same is a correct transcript therefrom and/or the whole thereof.

ATTEST my hand and the seal of said District Court on the 13th day of April, 2015.

DALE HATCH, Clerk

By


Deputy Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13 day of April, 2015, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

☐ U.S. Mail
☒ Email
☐ Hand Deliver

Kent V. Reynolds
Bannock County Public Defender

☐ U.S. Mail
☒ Email
☐ Hand Deliver

Records Administration

☐ U.S. Mail
☒ Email
☐ Hand Deliver

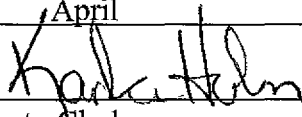
Division of Community Correction

☐ U.S. Mail
☒ Email
☐ Hand Deliver

Court Services

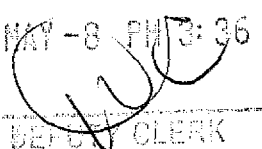
☐ U.S. Mail
☒ Email
☐ Hand Deliver

DATED this 13 day of April, 2015.



Deputy Clerk

RANDALL D. SCHULTHIES
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040
ISB 1784

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2015 MAY -8 PM 3:36
BY 
DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-0864-FE-A
Plaintiff/ Respondent)	
)	
vs.)	
	)	NOTICE OF APPEAL
AMAN GAS,)	
)	
Defendant/Appellant.)	
<hr/>		

TO: THE ABOVE NAMED RESPONDENTS, STATE OF IDAHO AND ITS ATTORNEY,
LAWRENCE G. WASDEN, ATTORNEY GENERAL FOR THE STATE OF IDAHO,
BANNOCK COUNTY PROSECUTING ATTORNEY, COURT REPORTER, AND THE
CLERK OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the Minute Entry and Order dated, April 13, 2015, by the Honorable Stephen S. Dunn, District Judge.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-10).

3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

(a) Did the district court err in sentencing the Defendant to **UNIFIED TERM OF TEN (10) YEARS OF WHICH FOUR (4) YEARS ARE FIXED AND A SUBSEQUENT INDETERMINATE TERM OF SIX (6) YEARS.**

(b) Part I. Whether the trial court erred and abused its discretion in denying Defendant's Motion to Set Aside Verdict and Motion for New Trial filed May30, 2014 and Amended Motion to Set Aside Verdict and Motion for New Trial filed August 13, 2014. The following errors are alleged

- A. The Court erred in denying Defendant's Motion to Exclude the hospital photographs.
- B. The court committed during the jury selection process resulting in a biased jury pool from which the jury panel was selected.
- C. The Court erred in denying Defendant's Batson Challenge
- D. The Court erred in allowing the State to present the testimony of the State's fact witnesses, Rylene Nowlin and Jamie Femreite to testify as expert witnesses in violation of Rule 16, I.C.R.

- E. The court erred in instructing the jury on the crime of Battery with Intent to Commit Rape.
- F. The Court erred in failing to instruct the jury on the lesser included offense of Misdemeanor Battery.
- G. The court abused its discretion and erroneously divided a single criminal episode into multiple criminal episodes and/or act(s) bootstrapping the Defendant when it elected to submit the Battery with Intent Jury instruction.
- H. There is a variance between the charge as alleged and the jury instructions permitting the jury to convict on a theory not alleged.
- I. The Court erred in denying the Motion In Limine to Exclude the State's DNA fact witnesses based upon inconsistent evidentiary rulings.
 - 1. The court committed fundamental error by applying Rule 16, I.C.R. when it disallowed two of the State's fact witnesses to testify as expert witnesses and then allowing two other State fact witnesses, the State's DNA witness, to testify as expert witnesses
 - 2. The Court committed fundamental error by misapplying Rule 16 based upon inconsistent evidentiary rulings within the same judicial district.
 - 3. The Court committed fundamental error in allowing the State's fact/DNA witnesses to testify as expert

witnesses without providing their qualifications prior to trial prejudicing the Defendant's right to a fair trial.

- J. The trial court abused its discretion by allowing the State to call two fact witnesses testify as expert witnesses on the grounds of unfair prejudice.
- K. The court erred in denying the motion to exclude the State's DNA witness to testify as expert witnesses on the grounds Defendant was on notice of the anticipated testimony.
- L. The court erred in denying the motion to exclude the DNA witnesses on the grounds the non-disclosure was a clerical mistake or an oversight.
- M. The court erred in denying Defendant's Motion to Set Aside Verdict and Motion for New Trial and Amended Motion to Set Aside Verdict and Motion for new trial on the grounds Insufficiency of the evidence to support the jury verdict based upon the
 - 1. Alibi evidence clearly established the Defendant was not present at the time of the alleged rape.
 - 2. The fingernail and penile DNA does not support the verdict based upon the variance in the testimony presented at trial and conflicting evidence is to be construed in favor of the Defendant.

3. The verdict cannot stand as the rape occurred prior to when Aman Gas left Holligan's and returned home.
4. The accumulation of errors and other irregularities during trial denied the Defendant a fair trial.

Part II. Whether the trial court erred and abused its discretion in denying Defendant's Motion to Disqualify filed May 16, 2014 based upon the errors asserted in part I whether the errors are considered cumulatively or individual basis.

4. **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(c). The appellant also requests the preparation of the additional portions of the reporter's transcript:

- (a) Hearing held on April 13, 2015, at 9:30 a.m. (Court Reporter Rodney Felshaw, less than 100 pages.)

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):


- (a) Any items offered at the sentencing hearing.

7. I certify:

- (a) That a copy of this Notice of Appeal has been served on the Court Reporter;

- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (I.C. §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That arrangements have been made with Bannock County who will be responsible for paying for the reporter's transcript, as the client is indigent, Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e);
- (e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 8 day of May, 2015.



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 8 day of May, 2015, I served a true and correct copy of the above document upon the following:

Bannock County Prosecutor
P.O. Box P
Pocatello, ID 83205

Lawrence G. Wasden
Attorney General for Idaho
Statehouse, Room 210
P.O. Box 83720
Boise, ID 83720-0010

Stephen W. Kenyon
Clerk of the Court
P.O. Box 83720
Boise, ID 83720-0010

State Appellate Public Defender's Office
Chief Appellate Unit
3050 N. Lake Harbor Lane, Suite 100
Boise, ID 83707

Court Reporter
Court Reporter's In-box 220
Bannock County Courthouse
Pocatello, Idaho 83205

Defendant
Aman Gas

By depositing a copy thereof in the United States Mail, postage prepaid, by first class mail to said attorney at the above address.


KENT V. REYNOLDS

PRANDALL D. SCHULTHIES

Chief Public Defender

P. O. Box 4147

Pocatello, Idaho 83205

(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2015 MAY -8 PM 3:37

BY 
COUNTY CLERK

KENT V. REYNOLDS

Assistant Chief Deputy Public Defender

ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,

Plaintiff/Respondent,

vs.

AMAN GAS,

Defendant/Appellant.

Case No. CR-2013-0864-FE-A

**MOTION TO APPOINT STATE
APPELLATE DIVISION**

COMES NOW Aman Gas, the Defendant/Appellant in the above entitled matter, and hereby moves the Court for an Order, as follows:

The Defendant has filed a Notice Of Appeal for the Court's decision on April 13, 2015, by sentencing the Defendant to **FOUR (4) YEARS FIXED and SIX (6) YEARS INDETERMINATE** by the Honorable Stephen S. Dunn, District Judge.

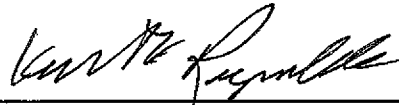
The Defendant respectfully requests that the Court enter an Order, appointing the State Appellate Division to assist the Defendant with his Appeal in this matter, and that further, said appointment shall be relative to the appeal proceedings only.

DATED this 8 day of May, 2015.


Kent V. Reynolds
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 8 day of May, 2015, I served a true and correct copy of the foregoing **MOTION TO APPOINT STATE APPELLATE DIVISION** upon the Bannock County Prosecuting Attorney, and the Court Reporter, by depositing a copy of the same in the Prosecutor's in-box and the Court Reporter's in-box, Bannock County Courthouse, Pocatello, Idaho; and by depositing in the United States Mail, postage prepaid, to: Lawrence G. Wasden, Attorney General - State of Idaho, Statehouse Room 210, P. O. Box 83720, Boise, Idaho 83720-0010; Stephen W. Kenyon, Clerk of the Court, P. O. Box 83720, Boise, Idaho 83720; and State Appellate Public Defender, 3050 N. Lake Harbor Lane, Suite 100, Boise, Idaho 83703.



Kent V. Reynolds
Assistant Chief Deputy Public Defender

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
)	
)	
Plaintiff-Respondent,	)	Supreme Court No.
)	
vs.)	
	)	CLERK'S CERTIFICATE
AMAN GAS	)	OF
	)	APPEAL
Defendant-Appellant,)	
)	
)	

Appealed from: Sixth Judicial District, Bannock County

Honorable Judge Stephen S. Dunn presiding

Bannock County Case No: CR-2013-864-FE

Order of Judgment Appealed from: Minute Entry, Judgment of Conviction and Commitment Order filed the 13th day of April, 2015 and Amended Minute Entry, Judgment of Conviction and Commitment Order filed the 17th day of April, 2015.

Attorney for Appellant: Randall D. Schulthies, Public Defender, Motion to appoint State Appellate Public Defender Pending

Attorney for Respondent: Lawrence G. Wasden, Attorney General, Boise

Appealed by: Aman Gas

Appealed against: State of Idaho

Notice of Appeal filed: May 8th 2015

Notice of Cross-Appeal filed: No

Appellate fee paid: No, exempt

Request for additional records filed: No

Request for additional reporter's transcript filed: No

Name of Reporter: Rodney Felshaw

Was District Court Reporter's transcript requested? yes

Estimated Number of Pages: less than 100

Dated

May 11, 2015

ROBERT POLEKI,
Clerk of the District Court


(Seal)



By

[Signature]
Deputy Clerk

RANDALL D. SCHULTHIES
Chief Public Defender
P. O. Box 4147
Pocatello, Idaho 83205
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2015 MAY 18 TH 2:37
BY 
DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

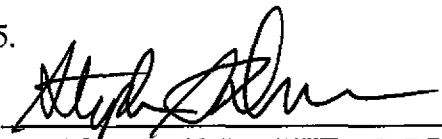
**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,)	
)	
Plaintiff/Respondent,)	
	)	Case No. CR-2013-0864-FE-A
vs.)	
)	
AMAN GAS,	)	ORDER APPOINTING STATE
	)	APPELLATE PUBLIC DEFENDER'S
Defendant/Appellant)	
_____)	

BASED UPON THE MOTION heretofore filed by Aman Gas, the Defendant in the above entitled matter, acting by and through his attorney of record, Kent V. Reynolds, of the Bannock County Public Defender's Office, and the Court having reviewed the same, and for good cause appearing,

IT IS HEREBY ORDERED that the State Appellate Public Defender is hereby appointed to represent the Defendant with his appeal in this proceeding, said appeal of the Minute Entry and Order and said appointment will be relative to the appeal proceedings, only.

DATED this 13th day of May, 2015.



HONORABLE STEPHEN S. DUNN
DISTRICT JUDGE

cc: Lawrence G. Wasden, Attorney General
Stephen W. Kenyon, Clerk of the Court
State Appellate Public Defender's Office
Bannock County Public Defender
Aman Gas, Defendant

RANDALL D. SCHULTHIES
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040
ISB 1784

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2015 JUN 16 PM 3:37
BY
DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-0864-FE-A
Plaintiff/ Respondent)	
)	
vs.	)	AMENDED
	)	NOTICE OF APPEAL
AMAN GAS,)	
)	
Defendant/Appellant.)	
_____)	

TO: THE ABOVE NAMED RESPONDENTS, STATE OF IDAHO AND ITS ATTORNEY,
LAWRENCE G. WARDEN, ATTORNEY GENERAL FOR THE STATE OF IDAHO,
BANNOCK COUNTY PROSECUTING ATTORNEY, COURT REPORTER, AND THE
CLERK OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the Minute Entry and Order dated, April 13, 2015, by the Honorable Stephen S. Dunn, District Judge.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-10).

3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

(a) Did the district court err in sentencing the Defendant to **UNIFIED TERM OF TEN (10) YEARS OF WHICH FOUR (4) YEARS ARE FIXED AND A SUBSEQUENT INDETERMINATE TERM OF SIX (6) YEARS.**

(b) Part I. Whether the trial court erred and abused its discretion in denying Defendant's Motion to Set Aside Verdict and Motion for New Trial filed May30, 2014 and Amended Motion to Set Aside Verdict and Motion for New Trial filed August 13, 2014. The following errors are alleged

- A. The Court erred in denying Defendant's Motion to Exclude the hospital photographs.
- B. The court committed an error during the jury selection process resulting in a biased jury pool from which the jury panel was selected.
- C. The Court erred in denying Defendant's Batson Challenge
- D. The Court erred in allowing the State to present the testimony of the State's fact witnesses, Rylene Nowlin and Jamie Femreite to testify as expert witnesses in violation of Rule 16, I.C.R.

- E. The court erred in instructing the jury on the crime of Battery with Intent to Commit Rape.
- F. The Court erred in failing to instruct the jury on the lesser included offense of Misdemeanor Battery.
- G. The court abused its discretion and erroneously divided a single criminal episode into multiple criminal episodes and/or act(s) bootstrapping the Defendant when it elected to submit the Battery with Intent Jury instruction.
- H. There is a variance between the charge as alleged and the jury instructions permitting the jury to convict on a theory not alleged.
- I. The Court erred in denying the Motion In Limine to Exclude the State's DNA fact witnesses based upon inconsistent evidentiary rulings.
 - 1. The court committed fundamental error by applying Rule 16, I.C.R. when it disallowed two of the State's fact witnesses to testify as expert witnesses and then allowing two other State fact witnesses, the State's DNA witness, to testify as expert witnesses
 - 2. The Court committed fundamental error by misapplying Rule 16 based upon inconsistent evidentiary rulings within the same judicial district.
 - 3. The Court committed fundamental error in allowing the State's fact/DNA witnesses to testify as expert

witnesses without providing their qualifications prior
to trial prejudicing the Defendant's right to a fair trial.

- J. The trial court abused its discretion by allowing the State to call two fact witnesses to testify as expert witnesses on the grounds of unfair prejudice.
- K. The court erred in denying the motion to exclude the State's DNA witness to testify as expert witnesses on the grounds Defendant was on notice of the anticipated testimony.
- L. The court erred in denying the motion to exclude the DNA witnesses on the grounds the non-disclosure was a clerical mistake or an oversight.
- M. The court erred in denying Defendant's Motion to Set Aside Verdict and Motion for New Trial and Amended Motion to Set Aside Verdict and Motion for new trial on the grounds Insufficiency of the evidence to support the jury verdict based upon the
 - 1. Alibi evidence clearly established the Defendant was not present at the time of the alleged rape.
 - 2. The fingernail and penile DNA does not support the verdict based upon the variance in the testimony presented at trial and conflicting evidence is to be construed in favor of the Defendant.

3. The verdict cannot stand as the rape occurred prior to when Aman Gas left Holligan's and returned home.
4. The accumulation of errors and other irregularities during trial denied the Defendant a fair trial.

Part II. Whether the trial court erred and abused its discretion in denying Defendant's Motion to Disqualify filed May 16, 2014 based upon the errors asserted in part I whether the errors are considered cumulatively or individual basis.

4. **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(c). The appellant also requests the preparation of the additional portions of the reporter's transcript:

- (a) Hearing held on April 13, 2015, at 9:30 a.m. (Court Reporter Rodney Felshaw, less than 100 pages.)
- (b) Transcripts for the following hearings:
 - Arraignment on January 22, 2013 at 1:15 p.m.
 - ✓ Preliminary on February 5, 2013 at 9:30 a.m. ~~new~~
 - Arraignment in District Court on February 11, 2013 at 9:30 a.m.
 - Pretrial Hearing on May 6, 2013 at 4:00 p.m.

Motion on May 13, 2013 at 9:30 a.m. (Court Reporter Sheri Turner, less than 100 pages)

Motion on June 3, 2013, at 9:30 a.m. (Court Reporter Sheri Turner, less than 100 pages)

Pretrial Conference on June 3, 2013, at 4:00 p.m. (Court Reporter Sheri Turner, less than 100 pages)

Motion on June 17, 2013, at 9:30 a.m. (Court Reporter Sheri Turner, less than 100 pages)

Pretrial Conference on July 1, 2013 at 4:00 p.m.

Motion on July 8, 2013, at 9:30 a.m. (Court Reporter Sheri Turner, less than 100 pages)

Pretrial Conference on August 5, 2013, at 4:00 p.m.

Motion on August 12, 2013, at 9:30 a.m. (Court Reporter Sheri Turner, less than 100 pages)

Pretrial Conference on September 3, 2013, at 4:00 p.m.

Motion hearing on September 9, 2013, at 9:30 a.m.

Motion Hearing on September 16, 2013 at 9:30 a.m. (Court Reporter Sheri Turner, less than 100 pages)

Pretrial Conference on November 4, 2013 at 4:00 p.m.

Pretrial Conference on January 6, 2014, at 4:00 p.m.

Motion to Suppress on April 9, 2014, at 3:00 p.m. (Court Reporter Sheri Turner, less than 100 pages)

Motion Hearing on April 28, 2014, at 9:30 a.m. (Court Reporter Sheri Turner, less than 100 pages)

Pretrial Conference on May 3, 2014, at 4:00 p.m.

Pretrial Conference on May 5, 2014, at 4:00 p.m.

Motion Hearing on May 12, 2014, at 9:30 a.m. (Court Reporter Sheri Nothelphim, less than 100 pages)

Motion Hearing on May 19, 2014, at 9:30 a.m. (Court Reporter Sheri Nothelphim, less than 100 pages)

Jury Trial on May 19, 2015, at 9:30 a.m to include motion hearing, the voir dire, in chambers and open court, opening statements, closing arguments, jury instruction conferences, reading of the jury instructions, any hearings regarding questions for the jury during deliberations, return of the verdict, and any polling of the jurors. (Court Reporter Sheri Nothelphim, estimated 160 pages)

Jury Trial on May 20, 2014, at 8:30 a.m. to include motion hearing, the voir dire, in chambers and open court, opening statements, closing arguments, jury instruction conferences, reading of the jury instructions, any hearings regarding questions for the jury during deliberations, return

of the verdict, and any polling of the jurors. (Court Reporter Sheri Nothelphim, estimated 350 pages)

Jury Trial on May 21, 2014, at 8:30 a.m. to include motion hearing, the voir dire, in chambers and open court, opening statements, closing arguments, jury instruction conferences, reading of the jury instructions, any hearings regarding questions for the jury during deliberations, return of the verdict, and any polling of the jurors. (Court Reporter Sheri Nothelphim, estimated 285)

Jury Trial on May 22, 2014, at 8:30 a.m. to include motion hearing, the voir dire, in chambers and open court, opening statements, closing arguments, jury instruction conferences, reading of the jury instructions, any hearings regarding questions for the jury during deliberations, return of the verdict, and any polling of the jurors. (Court Reporter Sheri Nothelphim, estimated 255 pages)

Motion June 23, 2014, at 9:30 a.m. (Court Reporter Sheri Nothelphim, less than 100 pages)

Motion on August 25, 2014, at 9:30 a.m. (Court Reporter Sheri Nothelphim, less than 100 pages)

Motion on November 3, 2014, at 9:30 a.m.

Motion on November 17, 2014, at 9:30 a.m. (Court Reporter Sheri Nothelphim, less than 100 pages)

Motion on December 1, 2014, at 9:30 a.m. (Court Reporter Sheri
Nothelphim, less than 100 pages)

Motion on December 15, 2014, at 9:30 a.m. (Court Reporter Sheri
Nothelphim, less than 100 pages)

Motion on January 26, 2015, at 9:30 a.m. (Court Reporter Sheri
Nothelphim, less than 100 pages)

Sentencing on April 13, 2015, at 9:30 a.m. (Court Reporter Rodney
Felshaw, less than 100 pages)

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):

- (a) Any items offered at the sentencing hearing.

7. I certify:

- (a) That a copy of this Notice of Appeal has been served on the Court Reporter;
- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (I.C. §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That arrangements have been made with Bannock County who will be

responsible for paying for the reporter's transcript, as the client is indigent,

Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e);

- (e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 14 day of June, 2015.



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 14 day of June, 2015, I served a true and correct copy of the above document upon the following:

Bannock County Prosecutor
P.O. Box P
Pocatello, ID 83205

Lawrence G. Wasden
Attorney General for Idaho
Statehouse, Room 210
P.O. Box 83720
Boise, ID 83720-0010

Stephen W. Kenyon
Clerk of the Court
P.O. Box 83720
Boise, ID 83720-0010

State Appellate Public Defender's Office
Chief Appellate Unit
3050 N. Lake Harbor Lane, Suite 100
Boise, ID 83707

Court Reporter
Court Reporter's In-box 220
Bannock County Courthouse
Pocatello, Idaho 83205

Defendant
Aman Gas

By depositing a copy thereof in the United States Mail, postage prepaid, by first class mail to said attorney at the above address.


KENT V. REYNOLDS

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
)	
)	
Plaintiff-Respondent,	)	Supreme Court No.
)	
vs.	)	AMENDED
	)	CLERK'S CERTIFICATE
AMAN GAS,	)	OF
	)	APPEAL
Defendant-Appellant,)	
)	
)	
_____)	

Appealed from: Sixth Judicial District, Bannock County

Honorable Judge Stephen S. Dunn presiding

Bannock County Case No: CR-2013-864-FE

Order of Judgment Appealed from: Minute Entry, Judgment of Conviction and Commitment Order filed the 13th day of April, 2015 and Amended Minute Entry, Judgment of Conviction and Commitment Order filed the 17th day of April, 2015

Attorney for Appellant: Randall D. Schulthies, Public Defender, Motion to appoint State Appellate Public Defender Pending

Attorney for Respondent: Lawrence G. Wasden, Attorney General, Boise

Appealed by: Aman Gas

Appealed against: State of Idaho

Notice of Appeal filed: May 8, 2015

Amended Notice of Appeal filed: June 16, 2015

Notice of Cross-Appeal filed: No

Appellate fee paid: No, exempt

Request for additional records filed: No

Request for additional reporter's transcript filed: **Yes**

Name of Reporter: **Rodney Felshaw and Sheri Turner**
(Linda Larsen will probably need to do Arraignment held 1-22-13
(Digital recording) Preliminary held 2-5-13 (Transcript done and in file
so we can copy) Arraignment held 2-11-13 (Digital recording) and
Pretrial Hearing held 5-6-13 (Digital recording)

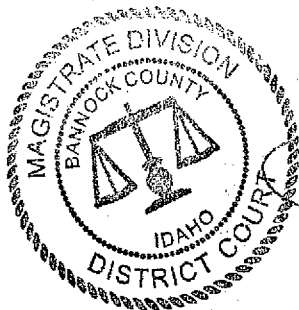
Was District Court Reporter's transcript requested? yes

Estimated Number of Pages: more than 100

Dated

June 17, 2015
ROBERT POLEKI,
Clerk of the District Court

(Seal)



By

[Signature]
Deputy Clerk

RANDALL D. SCHULTHIES
Chief Public Defender
P. O. Box 4147
Pocatello, Idaho 83205
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2015 JUN -8 PM 3:46
BY
DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	Case No. CR-2013-00864-FE-A
Plaintiff,)	
)	
vs.)	
)	
AMAN GAS,	)	RULE 35 MOTION
)	
Defendant.)	
_____)	


COMES NOW Aman Gas, Defendant in the above entitled matter, acting by and through his counsel of record, Kent V. Reynolds, Assistant Chief Deputy Public Defender of the Bannock County Public Defender's Office, and pursuant to Rule 35 of the Idaho Criminal Rules, hereby moves the Court for consideration of a reduction in the sentence imposed against the Defendant, as follows:

On the 13th day of April, 2015, the Defendant appeared before the above entitled Court and the Court sentenced the Defendant to **FOUR (4) YEARS FIXED AND SIX (6) YEARS INDETERMINATE.**

Pursuant to Rule 35 of the Idaho Criminal Rules, the Defendant respectfully requests that the Court reconsider the sentence imposed.

Oral argument is requested.

DATED this 8 day of June, 2015.

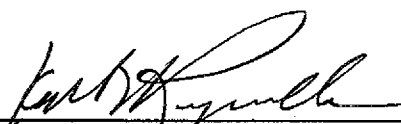

Kent V. Reynolds
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8 day of June, 2015, I served a true and correct copy of the foregoing **RULE 35 MOTION** upon the parties below, as follows:

Bannock County Prosecutor
Bannock County Courthouse
Prosecutor's in-box, Room 220
Pocatello, ID 83205

<input checked="" type="checkbox"/>	Hand Deliver
<input type="checkbox"/>	First Class Mail
<input type="checkbox"/>	Certified Mail
<input type="checkbox"/>	Facsimile


Kent V. Reynolds
Assistant Chief Deputy Public Defender

In the Supreme Court of the State of Idaho

STATE OF IDAHO,

Plaintiff-Respondent,

v.

AMAN GAS,

Defendant-Appellant.

NOTICE OF DEFECT

Supreme Court Docket No. 43259-2015

Bannock County No. CR-2013-864

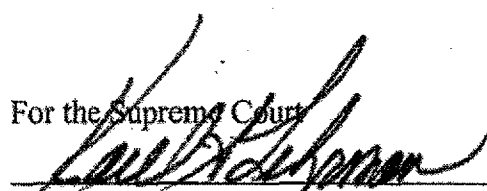
An AMENDED NOTICE OF APPEAL was filed in the District Court on June 16, 2015, and filed with this Court on June 19, 2015, from the AMENDED MINUTE ENTRY, JUDGMENT OF CONVICTION & COMMITMENT ORDER entered by District Judge Stephen S. Dunn and file stamped on April 17, 2015. It appears the AMENDED NOTICE OF APPEAL is not in compliance with Idaho Appellate Rule 17 in that it does not list the name of the Reporter for each of the transcripts requested, the Certificate of Service does not reflect service upon each of those Reporters and the documents requested for inclusion in this Record on Appeal are not listed by date(s) and title(s); therefore,

IT HEREBY IS ORDERED that this appeal be, and hereby is, SUSPENDED in order for Appellant to file a SECOND AMENDED NOTICE OF APPEAL with the District Court Clerk ON OR BEFORE FOURTEEN (14) DAYS OF THE DATE OF THIS ORDER reflecting the name of the Reporter as well as proof of service upon that Reporter for each of the transcripts requested and a list of the documents, by date(s) and title(s), for inclusion in this Record on Appeal, pursuant to Idaho Appellate Rule 17.

IT FURTHER IS ORDERED that proceedings in the above entitled appeal shall be SUSPENDED pending further Order of this Court.

DATED this 25th day of June, 2015.

For the Supreme Court


Karel A. Lehrman, Chief Deputy Clerk for
Stephen W. Kenyon, Clerk

cc: Counsel of Record
District Court Clerk
Court Reporter(s)
District Judge Stephen S. Dunn

IN THE SIXTH JUDICIAL DISTRICT OF THE STATE OF IDAHO
IN AND FOR THE COUNTY OF BANNOCK

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2015 JUN 25 PM 12:48
BY [Signature]
DEPUTY CLERK

STATE OF IDAHO,

Plaintiff,

vs.

AMAN FARAH GAS,

Defendant.

)
) Supreme Court Docket
) No. 43259-2015
)
) Bannock County Case
) Case No. CR-2013-864-FE
)
) NOTICE OF LODGING
)
)

Description of the hearings transcribed:

January 22, 2013 Arraignment

February 5, 2013 Preliminary Hearing

February 11, 2013 Arraignment

The transcripts in the above entitled matter were
lodged with the District Court Clerk at the Bannock County
Courthouse in Pocatello, Idaho, on the 25th day of June,
2012.

DATED this 25th day of June, 2015.

Linda M. Larsen
Linda M. Larsen
Deputy Clerk/Transcriptionist
Bannock County, Idaho

ORIGINAL

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of June, 2015,
I served a true and correct copy of the foregoing document
upon each of the following individuals in the manner
indicated.

Ian N. Service, Bannock County
Office of the Prosecuting
Attorney
PO Box P
Pocatello, ID 83205-0050

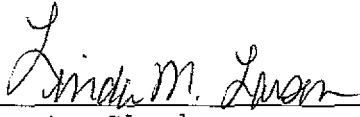
- ☐ U.S. Mail
- ☐ Overnight Delivery
- ☐ Hand Delivery
- ☐ E-mail
- ☒ Courthouse Box

Kent V. Reynolds
Bannock County Public Defender
PO Box 4147
Pocatello, ID 83205-4147

- ☐ U.S. Mail
- ☐ Overnight Delivery
- ☐ Hand Delivery
- ☐ E-mail
- ☒ Courthouse Box

LAWRENCE G. WASDEN
Attorney General for Idaho
Statehouse, Room 210
PO Box 83720
Boise, Idaho 83720-3720
janet.carter@ag.idaho.gov

- ☐ U.S. Mail
- ☐ Overnight Delivery
- ☐ Hand Delivery
- ☒ E-mail
- ☐ Courthouse Box



Deputy Clerk

SARA B. THOMAS
State Appellate Public Defender
I.S.B. #5867
P.O. Box 2816
Boise, ID 83701
(208) 334-2712

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2015 JUL -9 PM 5:08

BY 
DEPUTY CLERK

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR BANNOCK COUNTY

STATE OF IDAHO,

Plaintiff-Respondent,

v.

AMAN GAS,

Defendant-Appellant.

CASE NO. CR 2013-864

S.C. DOCKET NO. 43259

SECOND AMENDED
NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE PARTY'S ATTORNEYS, STEPHEN HERZOG, BANNOCK COUNTY PROSECUTOR, 624 EAST CENTER, POCA TELLO, ID, 83201, AND THE CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the Judgment of Conviction and Commitment Order entered in the above-entitled action on the 13th day of April, 2015, and the Amended Minute Entry, Judgment of Conviction and Commitment entered in the above-entitled action on the 17th day of April, 2015, the Honorable Stephen Dunn, presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-10).

SECOND AMENDED NOTICE OF APPEAL - Page 1

3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

(a) Did the district court err in sentencing the Defendant to a unified term of ten (10) years of which four (4) years fixed and a subsequent indeterminate term of six (6) years?

(b) Part I. Whether the trial court erred and abused its discretion in denying Defendant's Motion to Set Aside Verdict and Motion for New Trial filed May 30, 2014. And Amended Motion to Set Aside Verdict and Motion for New Trial filed August 13, 2014. The following errors are alleged:

A. The Court erred in denying Defendant's Motion to Exclude the hospital photographs.

B. The Court committed err during the jury selection process resulting in a biased jury pool from which the jury panel was selected.

C. The Court erred in denying Defendant's Batson Challenge.

D. The Court erred in allowing the State to present the testimony of the State's fact witnesses, Rylene Nowlin and Jamie Femreite, to testify as expert witnesses in violation of Rule 16, I.C.R.

E. The Court erred in instructing the jury on the crime of Battery with Intent to Commit Rape.

F. The Court erred in instructing the jury on the lesser included offense of Misdemeanor Battery.

G. The Court abused its discretion and erroneously divided a single criminal episode into multiple criminal episodes and/or acts(s) bootstrapping the Defendant when it elected to submit the Battery with Intent Jury Instruction.

H. There is a variance between the charge as alleged and the jury instructions permitting the jury to convict on a theory not alleged.

I. The Court erred in denying the Motion In Limine to Exclude the State's DNA fact witnesses based upon inconsistent evidentiary rulings.

1. The Court committed fundamental error by applying Rule 16, I.C.R. when it disallowed two of the State's fact witnesses to testify as expert witnesses and then allowing two other State fact witnesses, the State's DNA witness, to testify as expert witnesses.

2. The Court committed fundamental error by misapplying Rule 16 based upon inconsistent evidentiary rulings within the same judicial district.

3. The Court committed fundamental error in allowing the State's fact/DNA witnesses to testify as expert witnesses without providing their qualifications prior to trial prejudicing the Defendant's right to a fair trial.

J. The Court abused its discretion by allowing the State to call two fact witnesses testify as expert witnesses on the grounds of unfair prejudicial.

K. The Court erred in denying the motion to exclude the State's DNA witness to testify as expert witnesses on the grounds Defendant was on notice of the anticipated testimony.

L. The Court erred in denying the motion to exclude the DNA witnesses on the grounds the non-disclosure was a clerical mistake or an oversight.

M. The Court erred in denying Defendant's Motion to Set Aside Verdict and Motion for New Trial and Amended Motion to Set Aside Verdict and Motion for New Trial on the grounds of insufficiency of the evidence to support the jury verdict based upon the

1. Alibi evidence clearly established the Defendant was not present at the time of the alleged rape.
2. The fingernail and penile DNA does not support the verdict based upon the variance in the testimony presented at trial and conflicting evidence is to be construed in favor of the Defendant.
3. The verdict cannot stand as the rape occurred prior to when Aman Gas left Holligan's and returned home.
4. The accumulation of errors and other irregularities during trial denied the Defendant a fair trial.

Part II. Whether the trial court erred and abused its discretion in denying Defendant's Motion to Disqualify filed May 16, 2014, based upon the errors asserted in Part I whether the errors are considered cumulatively or individual basis.

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).

5. **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(c). The appellant also requests the preparation of the additional portions of the reporter's transcript:

- (a) ~~Arraignment held January 22, 2013;~~
- (b) ~~Arraignment in District Court held February 11, 2013;~~
- (c) Hearing held on April 13, 2015 (Court Reporter: Rodney Felshaw, less than 100 pages);
- (d) ~~Pretrial Hearing held May 6, 2013;~~
- (e) Motion to Continue May 13, 2013 at 9:00 a.m. (Court Reporter: Sheri Turner, less than 100 pages);
- (f) Pretrial Conference held on June 3, 2013 at 4:00 p.m. (requested only if on the record) (Court Reporter: Sheri Turner, less than 100 pages);
- (g) Motion for DNA testing June 17, 2013 (Court Reporter: Sheri Turner, estimation of less than 100 pages);
- (h) ~~Pretrial Conference held July 1, 2013;~~

- (i) Motion to Continue July 8, 2013 (Court Reporter: Sheri Turner, estimation of less than 100 pages);
- (j) ~~Pretrial Conference held August 5, 2013;~~
- (k) Motion to Continue August 12, 2013 (Court Reporter: Sheri Turner, estimation of less than 100 pages)
- (l) ~~Pretrial Conference held on September 3, 2013;~~
- (m) ~~Motion Hearing held September 9, 2013 (Court Reporter: Sheri Turner, less than 100 pages);~~
- (n) Motion to Pay Expert September 16, 2013 (Court Reporter: Sheri Turner estimation of less than 100 pages);
- (o) ~~Pretrial Conference held on November 4, 2013;~~
- (p) ~~Pretrial Conference held on January 6, 2014;~~
- (q) Motion to Suppress held April 9, 2014 (Court Reporter Sheri Turner, less than 100 pages);
- (r) Motion to Suppress Hearing April 28, 2014 Court Reporter: Sheri Turner, estimation of less than 100 pages);
- (s) ~~Pretrial Conference held May 3, 2014;~~
- (t) ~~Pretrial Conference held May 5, 2014;~~
- (u) Motion in Limini May 12, 2014 (Court Reporter: Sheri Nothelphim, estimation of less than 100 pages);
- (v) Motion Hearing held May 19, 2014 (Court Reporter: Sheri Nothelphim, estimation of less than 100 pages);

- (w) Jury Trial held May 19-22, 2014, to include all motion hearings, the voir dire, in chambers and open court, opening statements, closing arguments, jury instruction conferences, reading of the jury instructions, any hearings regarding questions from the jury during deliberations, return of the verdict, and any polling of the jurors (Court Reporter: Sheri Nothelphim, no estimation of 1050 pages);
- (x) Motion to Set Aside Verdict June 23, 2014 (Court Reporter: Sheri Nothelphim, estimation of less than 100 pages);
- (y) Motion Set Aside Verdict August 25, 2014 (Court Reporter: Sheri Nothelphim estimation of less than 100 pages);
- (z) Motion for Continuance Hearing held November 3, 2014 (Court Reporter: Sheri Nothelphim, estimation of less than 100 pages);
- (aa) Motion for Continuance Hearing held November 17, 2014 (Court Reporter: Sheri Nothelphim, estimation of less than 100 pages);
- (bb) Motion Hearing held December 1, 2015 (Court Reporter: Sheri Nothelphim, estimation of less than 100 pages);
- (cc) Motion Hearing held December 15, 2014 (Court Reporter: Sheri Nothelphim, estimation of less than 100 pages);
- (dd) Motion Hearing held January 26, 2015 (Court Reporter: Sheri Nothelphim, estimation of less than 100 pages); and
- (ee) Sentencing Hearing held on April 13, 2015 (Court Reporter: Rodney Felshaw, estimation of less than 100 pages).

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2) and all exhibits, recordings, and documents per I.A.R. 31. The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2) and I.A.R. 31:

- (a) Affidavit of Probable Cause filed January 22, 2013;
- (b) Preliminary Hearing Transcript filed February 19, 2013;
- (c) All items, including any affidavits, objections, responses, briefs or memorandums, offered in support of or in opposition to the Motion to Suppress, filed or lodged, by the state, appellant or the court including, but not limited to, the Objection to Defendant's Motion to Suppress filed March 5, 2014, Additional Stipulation of the Parties: re: Motion to Suppress and Additional Evidence filed April 18, 2014, Brief in Support of Motion to Suppress lodged April 21, 2014, Plaintiff's Response Brief in Opposition to Defendant's Motion to Suppress lodged April 28, 2014;
- (d) Notice of Alibi filed May 2, 2014;
- (e) Defendant's First Witness List filed May 6, 2014;
- (f) Defendant's Second Witness List filed May 7, 2014;
- (g) Defendant's Third Witness List filed May 9, 2014;
- (h) Defendant's First Exhibit List filed May 9, 2014;
- (i) All proposed and given jury instructions including, but not limited to, the Defendant's First Set of Requested Jury Instructions filed

May 9, 2014, Plaintiff's Requested Jury Instructions filed May 12, 2014, Defendant's Second Set of Requested Jury Instructions filed May 15, 2014, Defendant's Objection in States Proposed Exhibits and Court Proposed Post-Proof Jury Instructions filed May 16, 2014, Defendant's Notice of Withdrawal of Requested Jury Instructions filed May 16, 2014, and Jury Instructions filed May 22, 2014;

- (j) Offer of Proof in Support of Motion in Limine filed May 9, 2014;
- (k) State's Exhibit List filed May 12, 2014;
- (l) State's Witness List filed May 12, 2014;
- (m) Defendant's Second Exhibit List filed May 16, 2014;
- (n) Notices of Scope of Case Transcript Preparation filed June 10 and 12, 2014;
- (p) Stipulation of the Parties to Extend Briefing Schedule filed July 25, 2014;
- (q) All items, including any affidavits, objections, responses, briefs or memorandums, offered in support of or in opposition to the Motion to Set Aside Verdict and Motion for New Trial, filed or lodged, by the state, appellant or the court including, but not limited to, the First, Second and Third Affidavit of Kent V. Reynolds in Support of Motion to Set Aside Verdict and Motion to New Trial filed August 13, 2014, Brief in Support of Motion to Set Aside Verdict and New Trial lodged August 14, 2014, Plaintiff's Response Brief

Re: Defendant's Motion to Set Aside Verdict and Motion for New Trial and Motion for Disqualification lodged August 27, 2014, Plaintiff's Response Brief Re: Defendant's Motion to Set Aside Verdict and Motion for New Trial filed September 1, 2014, Brief in Support of Second Motion to Set Aside Verdict and Second Motion for New Trial lodged September 25, 2014, Plaintiff's Response Brief Re: Defendant's Third Motion to Set Aside Verdict and Motion for New Trial lodged October 7, 2014, Plaintiff's Response Brief Re: Defendant's Fourth Motion to Set Aside Verdict and Motion for New Trial lodged October 31, 2014, 5th Affidavit of Kent Reynolds in Support of Motion to Set Aside Verdict and Motion for New Trial filed January 6, 2015;

- (r) Affidavit of Lindsey Blake filed August 13, 2014;
- (s) Affidavit of Kent Reynolds Re: Suppress Hearing Recording filed August 15, 2014;
- (t) Stipulation to Extend State's Response Brief Deadline filed August 27, 2014; and
- (u) Any exhibits, including but not limited to letters or victim impact statements, addendums to the PSI or other items offered at sentencing hearing. Except that any pictures or depictions of child pornography necessary to the appeal need not be sent, but may be sought later by motion to the Idaho Supreme Court.

7. I certify:

- (a) That a copy of this Amended Notice of Appeal has been served on the Court Reporters, Sheri Nothelphim and Rodney Felshaw;
- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That arrangements have been made with Bannock County who will be responsible for paying for the reporter's transcript, as the client is indigent, I.C. §§ 31-3220, 31-3220A, I.A.R. 24(e); and
- (e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 9th day of July, 2015.



SARA B. THOMAS
State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have this 9th day of July, 2015, caused a true and correct copy of the attached SECOND AMENDED NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:


KENT V REYNOLDS
BANNOCK COUNTY PUBLIC DEFENDER
PO BOX 4147
POCATELLO ID 83205
(208) 236-7048

RODNEY FELSHAW
M&M COURT REPORTING
COURT REPORTER
421 WEST FRANKLIN
BOISE ID 83702
Rodney.felshaw@gmail.com

SHERI NOTHELPHIM
BANNOCK COUNTY COURTHOUSE
624 E CENTER STREET
POCATELLO ID 83201
(208) 236-7346

STEPHEN F HERZOG
BANNOCK COUNTY PROSECUTOR
624 EAST CENTER
POCATELLO ID 83201
(208) 239-6986

KENNETH K JORGENSEN
DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
PO BOX 83720
BOISE ID 83720-0010
Hand delivered to Attorney General's mailbox at Supreme Court


MARY ANN LARA
Administrative Assistant

SBT/tmf/mal

AMENDED NOTICE OF APPEAL - Page 12

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
)	
)	
Plaintiff-Respondent,	)	Supreme Court No. 43259
)	
vs.	)	SECOND AMENDED
	)	CLERK'S CERTIFICATE
AMAN GAS,	)	OF
	)	APPEAL
Defendant-Appellant,)	
)	
_____)	

Appealed from: Sixth Judicial District, Bannock County

Honorable Judge Stephen S. Dunn presiding

Bannock County Case No: CR-2013-864-FE

Order of Judgment Appealed from: Minute Entry, Judgment of Conviction and Commitment Order filed the 13th day of April, 2015 and Amended Minute Entry, Judgment of Conviction and Commitment Order filed the 17th day of April, 2015

Attorney for Appellant: Sara B. Thomas, State Appellate Public Defender, Boise

Attorney for Respondent: Lawrence G. Wasden, Attorney General, Boise

Appealed by: Aman Gas

Appealed against: State of Idaho

Notice of Appeal filed: May 8, 2015

Amended Notice of Appeal filed: June 16, 2015

Second Amended Notice of Appeal filed: July 9, 2015

Notice of Cross-Appeal filed: No

Appellate fee paid: No, exempt

Request for additional records filed: **Yes**

Request for additional reporter's transcript filed: **Yes/Some canceled**

Name of Reporter: Sheri Turner and Rodney Felshaw

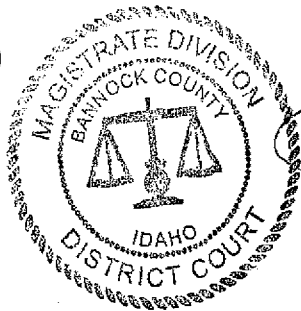
Was District Court Reporter's transcript requested? Yes

Estimated Number of Pages: more than 100

Dated July 13, 2015

ROBERT POLEKI,
Clerk of the District Court

(Seal)



By [Signature]
Deputy Clerk

RANDALL D. SCHULTHIES
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2015 AUG -6 PM 3:42

BY _____
DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO)

Plaintiff)

v.)

AMAN GAS,)

Defendant.)

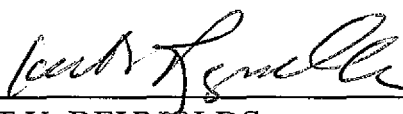
Case No. CR-2013-00864-FE-A

NOTICE OF HEARING

Monday, August 17, 2015
at 09:30 a.m.

PLEASE TAKE NOTICE that the undersigned will bring an **RULE 35**
MOTION before the **Honorable Stephen S. Dunn** on **Monday, August 17, 2015**, at
09:30 a.m.

DATED this 6 day of August, 2015.



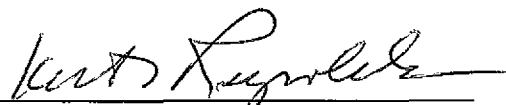
KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I ~~HEREBY~~ CERTIFY that on the 6 day of August, 2015, I served a true and correct copy of the **NOTICE OF HEARING** was served upon the parties below as follows:

Bannock County Prosecutors
Prosecutor's in-box, room 220
Bannock County Courthouse
Pocatello, ID 83205

☒ Hand Deliver



KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

FILED
BANNOCK COUNTY
CLERK OF THE COURT

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE

2015 AUG 19 AM 9:19

STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

Register No. CR-2013-00864-FE

STATE OF IDAHO,

Plaintiff,

-vs-

AMAN GAS,

Defendant.

BY [Signature]
DEPUTY CLERK

MINUTE ENTRY & ORDER

On August 17, 2015, the above named Defendant appeared before the Court by and through his counsel, Kent V. Reynolds, for the purpose of a hearing on Defendant's Rule 35 Motion. Stephen Herzog, Bannock County Prosecuting Attorney, appeared on behalf of the State of Idaho.

Sheri Nothelphim performed as Court Reporter for this proceeding.

The Court heard argument from counsel for the Defendant. The State objected to the Motion and provided argument. The Court heard a statement from the victim.

The Court advised that the Defendant's Rule 35 Motion is hereby **DENIED** for the reasons stated on the record in open court.

DATED August 18, 2015.

[Signature]

STEPHEN S. DUNN
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19 day of Aug, 2015, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Bannock County Prosecutor

- ☐ U.S. Mail
- ☒ Email
- ☐ Hand Deliver
- ☐ Facsimile

Kent V. Reynolds
Bannock County Public Defender

- ☐ U.S. Mail
- ☒ Email
- ☐ Hand Deliver
- ☐ Facsimile

Records Administration, IDOC

- ☒ U.S. Mail
- ☐ Email
- ☐ Hand Deliver
- ☐ Facsimile

DATED this 19 day of Aug, 2015.

Kate H.
Deputy Clerk

RANDALL D. SCHULTHIES
Chief Public Defender
P.O. Box 4147
Pocatello, Idaho 83205-4147
(208) 236-7040
ISB 1784

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2015 AUG 26 PM 3:31
BY *[Signature]*
DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	CASE NO. CR-2013-00864-FE-A
Plaintiff/ Respondent)	
)	
vs.	)	<i>Third Amended</i>
	)	NOTICE OF APPEAL ON
AMAN GAS,	)	RULE 35
)	
Defendant/Appellant.)	
_____)	

TO: THE ABOVE NAMED RESPONDENTS, STATE OF IDAHO AND ITS ATTORNEY,
LAWRENCE G. WASDEN, ATTORNEY GENERAL FOR THE STATE OF IDAHO,
BANNOCK COUNTY PROSECUTING ATTORNEY, COURT REPORTER, AND THE
CLERK OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the Memorandum Decision and Order, dated the 19th day of August, 2015, the Honorable Stephen S. Dunn, presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-10).

3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

- (a) Did the district court err in denying the appellant's Idaho Criminal Rule 35 motion to reduce his sentence?

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).

5. **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(c). The appellant also requests the preparation of the additional portions of the reporter's transcript:

- (a) Hearing held on August 17, 2015 at 9:30 a.m. (Court Reporter Sheri Nothelphim, less than 100 pages.)

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):

- (a) Any exhibits, including but not limited to letters or victim impact statements, addendums to the PSI or other items offered at sentencing hearing or the Rule 35 motion hearing.

7. I certify:

- (a) That a copy of this Notice of Appeal has been served on the Court Reporter;

- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (I.C. §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That arrangements have been made with Bannock County who will be responsible for paying for the reporter's transcript, as the client is indigent, Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e);
- (e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 25 day of August, 2015.


KENT V. REYNOLDS
Assistant Chief Deputy Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 25 day of August, 2015, I served a true and correct copy of the above document upon the following:

Bannock County Prosecutor
P.O. Box P
Pocatello, ID 83205

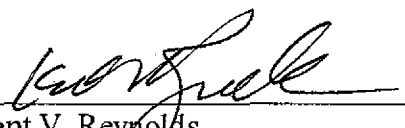
Lawrence G. Wasden
Attorney General for Idaho
Statehouse, Room 210
P.O. Box 83720
Boise, ID 83720-0010

Stephen W. Kenyon
Clerk of the Court
P.O. Box 83720
Boise, ID 83720-0010

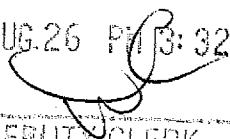
State Appellate Public Defender's Office
Chief Appellate Unit
3647 North Lakeharbor Lane
Boise, ID 83703-6913

Court Reporter
Court Reporter box room 220
Bannock County Courthouse
Pocatello, Idaho 83205

By depositing a copy thereof in the United States Mail, postage prepaid, by first class mail to said attorney at the above address.


Kent V. Reynolds

RANDALL D. SCHULTHIES
Chief Public Defender
P. O. Box 4147
Pocatello, Idaho 83205
(208) 236-7040

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2015 AUG. 26 PM 3:32
BY 
DEPUTY CLERK

KENT V. REYNOLDS
Assistant Chief Deputy Public Defender
ISB 3739

**IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK**

STATE OF IDAHO,)	
)	
Plaintiff/Respondent,	)	Case No. CR-2013-00864-FE-A
)	
vs.	)	<i>Third Amended</i>
	)	MOTION TO APPOINT STATE
AMAN GAS,	)	APPELLATE DIVISION
	)	RE: RULE 35 APPEAL
Defendant/Appellant.)	
_____)	

COMES NOW Aman Gas, Defendant/Appellant in the above entitled matter, and hereby moves the Court for an Order, as follows:

The Defendant has filed an Notice Of Appeal for the Court's review of the Court's Order denying the Rule 35 Motions, dated August 19, 2015, by the Honorable Stephen S. Dunn, District Judge. A Notice Of Appeal has been filed, this date.

The Defendant respectfully requests that the Court enter an Order, appointing the State Appellate Division to assist the Defendant with his Rule 35 Appeal in this matter, and that further, said appointment shall be relative to the appeal proceedings only.

DATED this 25 day of August, 2015.



Kent V. Reynolds
Assistant Chief Deputy Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25 day of August, 2015, I served a true and correct copy of the foregoing **MOTION TO APPOINT STATE APPELLATE DIVISION** upon the Bannock County Prosecuting Attorney, and the Court Reporter, by depositing a copy of the same in the Prosecutor's in-box and the Court Reporter's in-box, Bannock County Courthouse, Pocatello, Idaho; and by depositing in the United States Mail, postage prepaid, to: Lawrence G. Wasden, Attorney General - State of Idaho, P. O. Box 83720, Boise, Idaho 83720-0010; Stephen W. Kenyon, Clerk of the Court, P. O. Box 83720, Boise, Idaho 83720; and State Appellate Public Defender, 3050 N. Lake Harbor Lane Suite 100, Boise, Idaho 83703.



Kent V. Reynolds
Assistant Chief Deputy Public Defender

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
)	
)	
Plaintiff-Respondent,	)	Supreme Court No. 43259
)	
vs.	)	THIRD AMENDED
	)	CLERK'S CERTIFICATE
AMAN GAS,	)	OF
	)	APPEAL
Defendant-Appellant,)	
)	
)	
)	

Appealed from: Sixth Judicial District, Bannock County

Honorable Judge Stephen S. Dunn presiding

Bannock County Case No: CR-2013-864-FE

Order of Judgment Appealed from: Minute Entry and Order filed the 19th day of August, 2015.

Attorney for Appellant: Sara B. Thomas, State Appellat Public Defender, Boise

Attorney for Respondent: Lawrence G. Wasden, Attorney General, Boise

Appealed by: Aman Gas

Appealed against: State of Idaho

Notice of Appeal filed: May 8, 2015

Amended Notice of Appeal filed: June 16, 2015

Second Amended Notice of Appeal filed: July 9, 2015

Third Amended Notice of Appeal filed: August 26, 2015

Notice of Cross-Appeal filed: No

Appellate fee paid: No, exempt

Request for additional records filed: **Yes**

Request for additional reporter's transcript filed: **Yes**

Name of Reporter: **Sheri Nothelphim**

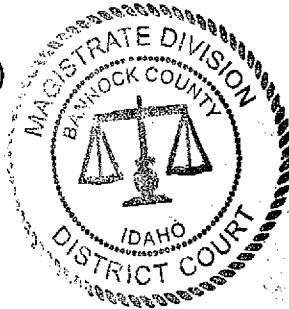
Was District Court Reporter's transcript requested? Yes

Estimated Number of Pages: less than 100

Dated August 27, 2015

ROBERT POLEKI,
Clerk of the District Court

(Seal)



By [Signature]

Deputy Clerk

IN THE DISTRICT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO

VS.

AMAN GAS

SUPREME COURT CASE NO. 43259

DISTRICT COURT CASE NO. CR-2013-864-FE

The transcript in the above entitled matter consisting of 1272 pages was lodged with the District Court Clerk at the BANNOCK COUNTY COURTHOUSE in POCA TELLO, Idaho, on the 24th day of August, 2015.

The following hearing(s) were lodged:

✓ 5/13/13	Jury Trial ✓ 5/19/14	✓ 6/23/14
✓ 6/17/13	Jury Trial ✓ 5/20/14	✓ 8/25/14
✓ 7/8/13	Jury Trial ✓ 5/21/14	✓ 11/3/14
✓ 8/12/13	Jury Trial ✓ 5/22/15	✓ 11/17/14
✓ 9/16/13		✓ 12/1/14
✓ 4/9/14		✓ 12/15/14
✓ 4/28/14		✓ 1/26/15
✓ 5/12/14		✓ 8/17/15 Rule 35
✓ 5/9/14		

DATED this 24th day of August, 2015.

Via:
(XX) Hand-Delivery
() U.S. Mail
(XX) Electronic Copy to ISC/COA

Sheri L. Nothelphim

SHERI L. NOTHELPHIM, RPR, CSR

Cc: Diane Cano, Bannock Co. Appellate Clerk
ISC/COA-Klondy L.

BANNOCK COUNTY
CLERK OF THE COURT
FILED
AUG 24 PM 5:39
DEPUTY CLERK
NOTICE
LODGING

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
COUNTY OF BANNOCK, STATE OF IDAHO

FILED
BANNOCK COUNTY
CLERK OF THE COURT
2015 AUG 27 AM 11:12
BY [Signature]
DEPUTY CLERK

STATE OF IDAHO,

Plaintiff/Respondent,

vs.

NOTICE OF LODGING.

AMAN F. GAS,

Defendant/Appellant.

IDAHO SUPREME COURT CASE: 43259
BANNOCK COUNTY CASE NO. CR-2013-0864

The following transcript(s) in the above-entitled matter were lodged with the District Court Clerk at the Bannock County Courthouse in Pocatello, Idaho, by U.S. mail on August 25, 2015.

April 13, 2015 - Sentencing. 28 pages.

Filed via:

- () Hand delivery to Court Clerk
- (XX) U.S. Mail to Court Clerk
- (XX) Electronic Copy to ISC/ICA.

Rodney M. Felshaw, RPR, CSR

(Typed name of Reporter.)

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,	)	Supreme Court No. 43259
)	
vs.)	
)	
AMAN GAS,)	
	)	CLERK'S CERTIFICATE
Defendant-Appellant,)	
)	
_____)	

I, ROBERT POLEKI, Clerk of the District Court of the Sixth Judicial District, of the State of Idaho, in and for the County of Bannock, do hereby certify that the above and foregoing record in the above-entitled cause was compiled and bound under my direction as, and is a true, full, and correct record of the pleadings and documents as are automatically required under Rule 28 of the Idaho appellate Rules.

I do further certify that all exhibits, offered or admitted in the above-entitled cause, will be duly lodged with the Clerk of the Supreme Court along with the court reporter's transcript and the clerk's record as required by Rule 31 of the Idaho Appellate Rules.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Pocatello, Idaho, this 5 day of October, 2015.


ROBERT POLEKI,
Clerk of the District Court

(Seal)



Bannock County, Idaho Supreme Court

By


Deputy Clerk

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,	)	Supreme Court No. 43259
)	
vs.)	
)	
AMAN GAS,)	
)	
Defendant-Appellant,	)	CERTIFICATE OF EXHIBITS
)	
_____)	

I, ROBERT POLEKI, the duly elected, qualified and acting Clerk of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Bannock, do hereby certify that the following are the original exhibits **from Motion to Suppress** marked for identification and introduced in evidence at trial of the above and foregoing cause, to wit:

DEFENDANT'S EXHIBITS

1. Exhibit 1 DVD State vs. Gas Buck (Lambson)130120-001(130120001)
Buck (Lambson) 130120-002 (130120002) 1:42:38
2. Exhibit 2 DVD Motion to Suppress Interview

PLAINTIFF'S EXHIBITS

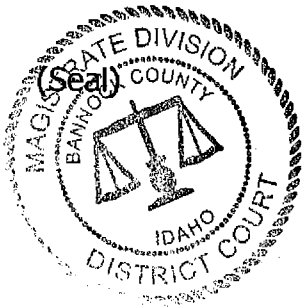
1. Exhibit 1 Adult Rights Form
2. Exhibit 2 Consent to Search

MISC. EXHIBIT

DVD TRANSPORT

I FURTHER CERTIFY that the above exhibits are attached to, and made a part of, the original transcript on appeal in said cause.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this the 5 day of October, 2015.



ROBERT POLEKI, Clerk of the District Court
Bannock County, State of Idaho

By: 
Deputy Clerk

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,	)	Supreme Court No. 43259
)	
vs.)	
)	
AMAN GAS,)	
)	
Defendant-Appellant,	)	CERTIFICATE OF EXHIBITS
)	
_____)	

I, ROBERT POLEKI, the duly elected, qualified and acting Clerk of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Bannock, do hereby certify that the following are the original exhibits marked for identification and introduced in evidence at trial of the above and foregoing cause, to wit:

DEFENDANT'S EXHIBITS

1. Exhibit "A" January 2013 calendar
2. Exhibit "G" Dispatch Record – Brown
3. Exhibit "M" Layout/drawing of floor plan of apartment
4. Exhibit "N1" Photograph of house/apartment
5. Exhibit "N2" Photograph of house/apartment
6. Exhibit "N3" Photograph of house/apartment
7. Exhibit "N5" Photograph of house/apartment
8. Exhibit "N7" Photograph of house/apartment
9. Exhibit "N8" Photograph of house/apartment
10. Exhibit "N10" Photograph of house/apartment
11. Exhibit "N16" Photograph of house/apartment

12. Exhibit "N17" Photograph of house/apartment
13. Exhibit "N18" Photograph of house/apartment
14. Exhibit "N21" Photograph of house/apartment
15. Exhibit "N25" Photograph of house/apartment
16. Exhibit "N26" Photograph of house/apartment
17. Exhibit "N27" Photograph of house/apartment
18. Exhibit "N28" Photograph of house/apartment
19. Exhibit "S" Picture of Holligans
20. Exhibit II Guzman drawing
21. Exhibit LL Picture of Archi

DENIED

22. Exhibit "H" Dispatch Record – Buck
23. Exhibit "J1" Picture of Abishek Dwidevdi
24. Exhibit "K1" Facebook Picture – Andrea Ogolla's phone – Two Page
25. Exhibit "N19" Photograph of house/apartment
26. Exhibit "O2" Two picture or Arch LNU (Facebook Listing)

ADMITTED TO PERSERVE RECORD FOR APPEAL ONLY. NOT TO BE GIVEN TO JURY:

27. Exhibit "JJ" CV of Femreite
28. Exhibit "KK" CV of Nowlin

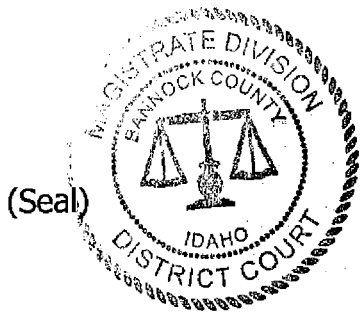
PLAINTIFF'S EXHIBITS

1. Exhibit "1" Facebook HELP Message – Raushelle
2. Exhibit "3" Facebook Msg. to Dad – I've been raped
3. Exhibit "5" SANE Photo 5 (RETAINED)
4. Exhibit "6" SANE Photo 6 (RETAINED)
5. Exhibit "7" Raushelle's Medical Records – SANE exam
6. Exhibit "9" Photo of Phone Log – Andrea's
7. Exhibit "14" Photo's of vict. rectum (RETAINED)
8. Exhibit "15" Photo's of vict. rectum (RETAINED)
9. Exhibit "16" Photo's of vict. rectum (RETAINED)

QUESTION FROM JURY DURING DELIBERATIONS

I FURTHER CERTIFY that the above exhibits are attached to, and made a part of, the original transcript on appeal in said cause.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this the 5 day of October, 2015.



ROBERT POLEKI, Clerk of the District Court
Bannock County, State of Idaho

By: 

Deputy Clerk

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	Supreme Court No. 43259
Plaintiff-Respondent,)	
	)	CONFIDENTIAL
vs.	)	CLERK'S CERTIFICATE
)	
AMAN GAS,)	
)	
Defendant-Appellant.)	
_____)	

I, ROBERT POLEKI, Clerk of the District Court of the Sixth Judicial District, of the State of Idaho, in and for the County of Bannock, do hereby certify that the above and foregoing record in the above-entitled cause was compiled and bound under my direction as, and is a true, full, and correct record of the pleadings and documents as are automatically required under Rule 28 of the Idaho appellate Rules.

I do further certify that there were no exhibits marked for identification or admitted into evidence during the course of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Pocatello, Idaho, this 5 day of October, 2015.

(Seal)



ROBERT POLEKI,
Clerk of the District Court
Bannock County, Idaho Supreme Court

By [Signature]
Deputy Clerk

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

STATE OF IDAHO,)	
	)	Supreme Court No. 43259
Plaintiff-Respondent,)	
	)	CONFIDENTIAL
vs.	)	CERTIFICATE OF EXHIBITS
)	
AMAN GAS,)	
)	
)	
Defendant-Appellant.)	
_____)	

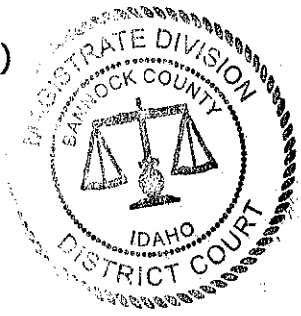
I, ROBERT POLEKI, the duly elected, qualified and acting Clerk of the District Court of the Sixth Judicial District of the State of Idaho, in and for the County of Bannock, do hereby certify that there were no exhibits marked for identification and introduced into evidence at trial. The following exhibit will be treated as a exhibit in the above and foregoing cause, to wit:

1. Letter from Idaho Department of Correction filed 3-11-15.
2. Letter from Kent V. Reynolds dated 3-13-15.
3. Presentence Report filed 4-8-15.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal
of said Court, this the 5 day of October, 2015.

ROBERT POLEKI, Clerk of the District Court
Bannock County, State of Idaho

(Seal)



By: 

Deputy Clerk

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

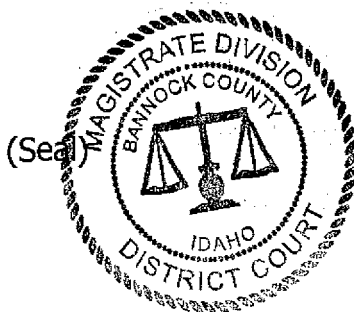
STATE OF IDAHO,)	
	)	Supreme Court No. 43259
Plaintiff-Respondent,)	
)	
vs.	)	CERTIFICATE OF SERVICE
)	
AMAN GAS,)	
)	
Defendant-Appellant,)	
_____)	

I, ROBERT POLEKI, Clerk of the District Court of the Sixth Judicial District,
of the State of Idaho, in and for the County of Bannock, do hereby certify that I
have personally served or mailed, by United States mail, one copy of the
REPORTER'S TRANSCRIPT and CLERK'S RECORD to each of the Attorneys of
Record in this cause as follows:

Sara B. Thomas
Appellate Public Defender
Post Office Box 83720
Boise, Idaho 83720-0005

Lawrence G. Wasden
Idaho Attorney General
Post Office Box 83720
Boise, Idaho 83720-0010

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal
of said Court at Pocatello, Idaho, this _____ day of October 2015.



ROBERT POLEKI,
Clerk of the District Court
Bannock County, Idaho Supreme Court

By 
Deputy Clerk